A

GUIDE

FOR

CONSTABLES,

Churchwardens, Overſeers of the Poor, Surveyors of the High-ways, Treaſurers of the County-Stock, Maſters of the Houſe of Correction, Bayliffs of Mannors, Toll-takers in Fairs, *&c.*

A

TREATISE

Briefly ſhewing

The Extent and Latitude of the ſeveral Offices, with the Power of the Officers therein, both by Common Law and Statute, according to the ſeveral Additions and Alterations of the Law, to this preſent year 1681.

Wherein the Heads of the New Statutes for Burying in Woollen, For collecting the Maintenance of the Miniſters in *London*, For the Streets, Pavements, Sewers and Dreins in *London*, and for the Prohibiting of *French* Goods, are (among others) inſerted under their proper Titles.

The Seventh Edition Enlarged.

Collected by *Geo. Meriton*, Gent.

LONDON, Printed for *H. Herringman*, *H. Sawbridge*, *F. Tyton*, *J. Starky*, *T. Baſſet*, *R. Pawlet*, *S. Heyrick*, *W. R.* *J. Place*, and *W. Leak*, Bookſellers in *Fleet-ſtreet* and *Holborn*. 1682.

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Rec. Mar. 25, 1899.

TO THE READER.

THe former Edition of this Treatiſe, Entituled *A Guide for Conſtables*, &c. being found by late experience to be now but a Blind Guide, apt rather to lead thee out of the way, than to direct thee, in regard that ſeveral of the Acts of Parliament therein mentioned, are now Expired, and others of them ſo altered by ſubſequent Acts of Parliament, that in abundance of Caſes the Law is wholly changed from what it was when that Edition was publiſhed: I conceived it would be no unacceptable Service to the Publick, to prepare this New One for the Preſs: Therein thou wilt find the Heads of all the New Statutes made ſince the 22 *th.* Year of His Majeſties Reign (for that other went no farther) which concern the Matter hand-

led in this Book, faithfully inſerted; Others, which are ſince that time diſcontinued, omitted, and for the moſt part, the times of their Expiration: The Continuance or Reviver of ſeveral Statutes, which were then but Temporary. And, in ſhort, whatever Alterations of the Law have been made ſince the ſaid 22*th.* Year in reference to this Subject: Farewel.

Octob.
1681.

To

To all Conſtables, Tything-men, Head-boroughs, Burſholders, &c.

SIRS,

HAving many times conſidered of the large Extent of the Conſtables Office, and how little skill or knowledge many of you have, who are often called to take upon you the ſame Office, and alſo how few Authors there be who have writ on this Subject, Mr. Lambert, *Mr.* Wingate, *and Mr.* Sheppard *being the Chief, whoſe Rules at this day are very unſafe for the Conſtables to ſquare their Actions by: for Mr.* Lambert's *Book being a Diſcourſe principally of the Common Law caſes, is now much alter'd by Statute ſince, and that Book of the Office of a Conſtable Fathered upon Mr.* Wingate, *I am verily perſwaded was none of his Work; for there are ſome unwarrantable Au-*

thorities and groſs Errors in it, which could not have ſlipped his ingenious Pen if the Work had been his; and for Mr. Sheppard's *Book, it is ſtuft full of Acts and Ordinances of that Convention at* Weſtminſter (*which in the late times of Uſurpation and Rebellion was owned for a Parliament*) *which Ordinances are now of no force; Therefore none of theſe being ſafe and warrantable Rules for the Conſtables to walk by, but blind Guides to lead them into the by-paths and crooked Meanders of many Errors; I thought thereupon that ſome little Treatiſe of this Subject might not only prove very uſeful, but alſo very beneficial for the generality of People of this Kingdom; which conſideration hath occaſioned me to publiſh this ſmall unpoliſhed Epitome; and though I know the Book will fall under many hard Cenſures of thoſe who are far better able to undertake the Work, yet I hope, Dear*

Friends,

Friends, my willingneſs to contribute any thing to your Service, though but a Mite, doth claim your favourable Acceptance of my pains; Remembring the old ſaying——eſt voluiſſe ſatis; *and there is nothing of ſo little regard, but hath ſomething of worth in it, and I deſpair not of ſome profit hence to you for whom it is intended, and for whoſe eaſe, ſatisfaction and direction it was collected and publiſhed by him, Kind Friends, whoſe ambition and deſire is, and ſhall be*

Red-Hall,
Feb. 25.
1668.

Yours ready to ſerve
in what he may,

George Meriton.

The

The CONTENTS of the Chapters.

Chap. 1. *OF the Derivation of the word* Conſtable, *how many ſorts of Conſtables, the Antiquity of the Office, the ſeveral Appellations of this Officer in ſeveral places, who ought to be choſen to the ſaid Office, and how and where to be ſworn, with the Form of the Conſtables Oath.* Pag. 1.

Chap. 2. *The Conſtables Office about Affrays.* 9

Chap. 3. *The Conſtables Office about Alehouſes,* &c. 13

Chap. 4. *The Conſtables Office about Arms.* 16

Chap. 5. *The Conſtables Office about Forein Bone-Laces, Cutwork, Imbroydery,* &c. *And French Goods,* 17

Chap. 6. *The Conſtables Office about* Iriſh *Cattle.* 20

Chap. 7. *The Conſtables Office about Chimney Money.* 23

Chap. 8. *The Conſtables Office about Conventicles.* 25

Chap. 9. *The Conſtables Office about Clothiers.* 27

Chap. 10. *The Conſtables Office about the Cuſtom* 28

Chap. 11. *The Conſtables Office about Setting Dogs,* &c. 29

Chap. 12. *The Conſtables Office about Eſcapes and Arreſts.* 31

Chap. 13. *The Conſtables Office about Exciſe.* 34

Chap. 14. *The Conſtables Office about Fiſh.* 35

Chap. 15. *The Conſtables Office about Forceable Entries,* &c. 36

Chap. 16. *The Conſtables Office about Hedge-Breakers,* &c. 37

Chap. 17. *The Conſtables Office about High-ways.* 40

Chap. 18

Chap. 18. *The Constables Office about Stoned Horses.* 44
Chap. 19. *The Constables Office about Hue-and-Cry.* 45
Chap. 20. *The Constables Office about Labourers and Servants.* 47
Chap. 21. *The Constables Office about Malt-making.* 49
Chap. 22, *The Constables Office about the Militia.* 51
Chap. 23. *The Constables Office about Moss-Troopers.* 52
Chap. 24. *The Constables Office about disturbing Ministers.* ibid.
Chap. 25. *The Constables Office about the Peace.* 54
Chap. 26. *The Constables Office about Physicians.* 56
Chap. 27. *The Constables Office about the Plague.* ibid.
Chap. 28. *The Constables Office about conveying Prisoners to the Goal.* 57
Chap. 29. *The Constables Office about Purveyance.* 59
Chap. 30. *The Constables Office about Quarter-Monies for Maimed Soldiers, Prisoners, &c.* 60
Chap. 31. *The Constables Office about Popish Recusants.* 62
Chap. 32. *The Constables Office about Riots and Routs.* 63
Chap. 33. *The Constables Office about Rogues and Vagabonds.* 65
Chap. 34. *The Constables Office about prophane Swearing.* 70
Chap. 35. *The Constables Office about prophaning the Sabbath.* 71
Chap. 36. *The Constables Office about Tobacco Planting.* 74
Chap. 37. *The Constables Office about Weights and Measures.* 77
Chap. 38. *The Constables Office about Watches.* 78

Chap. 39. *The Constables Office, about collecting the Assesments for the Incumbents in* London. 80
Chap. 40. *The Constables Office about executing Warrants.* 82

The Contents of the Chapters in the Churchwardens Office.

Chap. 1. *THe Antiquity of the Churchwardens Office, and how they are to be chosen.* 87
Chap. 2. *The Churchwardens Office about Prophanation of the Sabbath, and of the Church.* 89
Chap. 3. *Some few Cases concerning Actions for and against Churchwardens.* 92
Chap. 4. *The Churchwardens Office about disposing of Seats in their Churches.* 96
Chap. 5. *The Churchwardens Office about Reparations and Rates.* 99
Chap. 6. *Some Cases wherein the Churchwardens are equally concerned with the Constables and Overseers of the Poor.* 103
Chap 7. *The Churchwardens Office about passing Accounts, together with the Heads of most of the things which they are to present at the Visitation Courts.* 106

The Contents of the Chapters in the Overseer of the Poor's Office.

Chap. 1. *OF the Antiquity of the Officer, their Qualifications, and how and when to be chosen.* 113

Chap. 2. *Of the ſeveral ſorts of Poor People, and what Poor the Overſeers are to provide for and relieve, or ſet to work.* 115
Chap. 3. *The Duty of the Overſeers about putting forth and binding Apprentices, with the Form of the Indenture for ſuch purpoſe.* 119
Chap. 4. *Several Caſes about Settlements, and alſo touching Baſtards,* &c. 124
Chap. 5. *The Overſeers Office in making of Rates, and paſſing Accounts.* 131
Chap. 6. *The Overſeers Duty about Burying in Woollen.* 136

The Contents of the Chapters in the Surveyors Office for High-ways, &c.

Chap. 1. *OF the Choice of theſe Officers, how many Sorts of ways there are, with ſome few General Caſes concerning Highways.* 140
Chap. 2. *The Duty of the Surveyors about Setting and Calling the Pariſhioners to the Common days Works for the High-ways, and about taking and digging for Gravel, Chalk, Sand,* &c. 142
Chap. 3. *The Surveyors Duty about cutting down Buſhes, Trees, and Scouring of Ditches in the High-ways; and alſo touching Preſentments and Inquiries about Defaults, paſſing of Accounts, Travelling of Wagons, Wayns,* &c. 146
Chap. 4. *Some Heads of the Stat. 22, & 23 Car. 2. ch. 17. concerning the Ways, Sewers, Pavements,* &c. *in* London, *and the Scavengers Office.* 149
Chap. 5. *Several Caſes about the Repairs of Bridges, with the Names of the Statutes which concern particular Bridges.* 152

The Contents.

The Treasurers Office for Maimed Souldiers and Mariners in General. 157
The Treasurers Office for Prisoners and Hospitals, &c: in general. 161
The Office of Masters of Houses of Correction, and of the Work-houses in London *and* Westminster, *&c. in general.* 164
The Office of Bayliffs of Mannors in general. 170
The Duty of Governours of Fairs and Markets, &c. in general. 172

A GUIDE FOR CONSTABLES, &c.

CHAP. I.

Of the Derivation of the word Constable, *how many sorts of Constables, the Antiquity of the Office, the several Appellations of this Officer in several places, who ought to be chosen to the said Office, and how and where to be sworn, with the form of the Constables Oath.*

THE word *Constable* is derived or compounded of two old *Saxon* words, Cuninge, or Kininge, which signifieth *King*, and Stable signifying *Stability*; shewing that these ancient Officers were reputed to be as the stability or stay of the King and Kingdom: *Co. 4. Part. Inst. fol. 123. Lamb. Office of Const. 5. & Dalt. J. P. c. 15. fol. 46.*

There are only two sorts of Constables, of whose Office this Treatise maketh particular mention, and that is High Constables of Hundreds, and Petty Constables in Towns and Parishes.

Now by the opinion of ſome men theſe High Conſtables were firſt ordained to be choſen by the Statute of *Wincheſter*, and they were to make view of Armor twice every year, and to preſent before the Juſtices aſſigned defaults of Armor, Watches, High-ways, Hue and Cry, and alſo ſuch as lodged Strangers for whom they would not anſwer. *Lamb.* 5. *Raſtall* 379. *C. D.* 13 *E.* 1. *c.* 6. *Dalton's J. P. c.* 16. *fol.* 46.

And that the Petty Conſtables in Towns and Pariſhes, were after deviſed for the aid of the High Conſtables of Hundreds, about the beginning of the Reign of King *Edward* the Third. *Lamb. Duty Conſt. pag.* 9.

But others are of opinion, that the High Conſtables were Conſervators of the Peace within their ſeveral Hundreds and Limits, by the ancient Common Law. *Crompt.* 6. & 222. 12 *H.* 7. *fol.* 18.

And that whereas the Sheriffs of Counties at the firſt had the Government of their Counties committed to them, that afterwards by reaſon of the multitude of people, it being then too great a task for one man to undertake, thereupon Hundreds were deduced and derived out of the Countries, and in every one of them was ordained a Conſervator of the Peace, who was called the High Conſtable; and after this Boroughs or Towns were made, and within every one of them alſo was ordained a Conſervator of the Peace, who is called the Petty Conſtable: and this was long before the time of King *Edward* the Third, as appears by the derivation of the words, and that they were in the time of the *Saxons*, ſo that

that it may ſeem as well the High Conſtables, as the Petty Conſtables and their Authorities, were by the Common Law; and that the old Statutes concerning them, are but a Recital of the ancient Common Law, 12 *H.7. fol.*18. *a. Dalton's J. P. c.* 16. *fol.* 46.

Now there be other Officers of much like Authority to the Conſtables, as the Burſholders in *Kent*, the third Burrough in *Warwickſhire*, and the Tythingman, Burrough-head, or Headburrough or Chief Pledge in other places; but yet the Office of a Conſtable is diſtinct and (as it ſeemeth) is of greater Authority then theſe other: for it is held by ſome that theſe Burſholders, Thirdburroughs, Tything-men, *&c.* being in a Town or Pariſh where a Conſtable is, that in ſuch caſe they cannot meddle, becauſe the Conſtables be (in compariſon of them) Head Officers, and that the others are but as Aſſiſtants to the Conſtables in all Services of his Office when the Conſtable is preſent, and in his abſence then theſe others are to attend the ſervice; and that there are many other things which the Conſtables may do, and wherewith the Burſholders and the reſt cannot meddle at all; and yet in Towns where there be no Conſtables, and that the Burſholders, Tythingmen, *&c.* be there the only Officer for the Peace, as alſo in ſuch caſe where the Power or Authority of a Burſholder, Tythingman, *&c.* is declared to be equal with the power of the Conſtable, in all ſuch caſes and things, their Office and Authority be in a manner all one. See 1 *Jac. c.*7. *Lamb. pag.*4,6,9,51,52,53,54,55. *Dalton's J. P. ch.* 1. *fol.*3,4.

Where any Statute doth appoint offenders to be punished by the Constable, or other inferiour Officer, in such case the Tythingman, Headburrough, &c. may do it, for they are supposed to be inferiour Officers to the Constable. *Dalton's J. P. ch.* 11 *fol.* 4.

Note that these Officers are to be attendant to Court-Leets, Justices of the Peace, and Coroners, for the executing of their Warrants, within their several Precincts.

And now as to the choice of these Constables, you shall understand that the Law requireth that every Constable be *Idoneus homo*, that is, apt and fit for the execution of the said Office, and he is said in Law to be *Idoneus*, who is indued with these three things, honesty, knowledge and ability. *Co.* 8. *lib. Rep. fol.* 41. in *Grieslyes* case there.

First, he ought to have Honesty to execute his Office truly, without malice, affection or partiality. Secondly, Knowledge to understand what he ought to do. And lastly, Ability as well in substance or estate, as also in body, that so he may attend and execute his Office diligently, and not, through impotency of body or want, to neglect the place; for Constables chosen out of the meaner sort, they are either ignorant what to do, or dare not do what they should, or are not able to spare the time to execute the Office: they ought therefore to be of the ablest sort of men, and are not to be chosen either by House or other Custom, if they be not fit persons for the Office. *Co.* 8. *lib. rep. fol.* 41.

And if any one shall be chosen Constable, which is not thus qualified and inabled, he may

may by Law be diſcharged of his ſaid Office; and another fit man may be appointed in his place. *Ca. 8. lib. rep. fol.* 42.

Clergymen, Juſtices of the Peace, Lawyers, Phyſicians, Attorneys, Women, whether Maids or Widows, Madmen, Infants, old, ſick, decrepit perſons, nor poor people are not to be choſen to the Office of Conſtable.

And note, that a man is to ſerve this Office in reſpect of his perſonal abode and place of Reſiancy, and not in reſpect of his Land in another place; for if he have Lands in one place, and keep houſe in another place, he muſt ſerve where he dives, and not where his Lands lie.

A cuſtom in a Pariſh or Town, that the Office of Conſtable ſhall go by the houſe, is not good; for if a woman have an houſe there, ſhe is eligible, which is againſt Law; but a cuſtom that every man, ſufficient in the place, ſhall ſerve the Office himſelf, or find a ſufficient man to ſerve it, may be good. *Cro. 1. Part. Rep. fol.* 283.

A Leet chooſing unable or unfit Conſtables is cauſe of forfeiture of the Leet, and ſuch choice is void, and two Juſtices of Peace, upon complaint to them made, may remove ſuch a Conſtable, and chooſe and ſwear a new one. *Dalton's J. P. cap.* 16. *fol.* 47. *Steels Rep. fol* 21. *Mich.* 22 *Car.* 1. *B R. Bolſtred's* 1 *part. Rep fol.* 174.

The High Conſtables are moſt uſually choſen at the Quarter Seſſions of the Peace for that County, and are either to be ſworn there, or elſe by warrant from the Seſſions to be ſworn elſewhere; and if it happen

that they be choſen out of the Seſſions, then ought they to be choſen by the greater number of the Juſtices of that Diviſion where they dwell. *Lamb.* 190. 13 *E.* 1. *Stat. Winch. Dalt. J. P. ch.* 16. *fol.* 46.

And in ſuch manner as they are to be choſen, in the ſame manner, and by the like Authority are they to be removed; for *eodem modo quo quid conſtituitur, diſſolvitur.*

By the *Stat.* of the 34 *H.* 8. Two Juſtices of the Peace, the one being of the *Quorum*, may appoint the High Conſtables in *Wales*, 34 *H.* 8. *ch.* 26.

Now for the Swearing and chooſing of petty Conſtables, it properly belongs to the Court-Leet, but in ancient time they were yearly appointed by the Sheriffs in their turn, and were there ſworn and received their Oath, and ſo they may ſtill. *Bacons uſe of the Law, pag.* 5, 6. *Dalt. J. P. c.* 16. *fol.* 47. *& ch.* 121. *fol.* 366.

Conſtables lawfully choſen, if they ſhall refuſe to be ſworn, the Juſtices of Peace may bind them over to the Aſſiſes, or Seſſions of the Peace, *Dalt. J. P. ch.* 16. *fol.* 47. *vide Crawlyes Caſe. Cro.* 1. *Part. fol.* 409.

A Conſtable of an Hundred or Pariſh, may not make a Deputy to execute his Office, as ſome hold opinion, but a Deputy may do under him many parts of his Office in his Name, ſo ſtill as the Conſtable muſt anſwer for it. *Holſtrods* 3 *Part. Rep. fol.* 77, 78.

If any Action be brought againſt a Juſtice of Peace, Mayor, or Bailiff of a Corporation, Headborough, Port-Reeve, Conſtable, Tythingman, Collector of Subſidies or Fifteens, Church-

Churchwardens, Sworn-men, Overseers of the Poor, or their Assistants, for any thing done by reason of their several Offices, they may plead the general issue, and give the special matter in Evidence. 7 *Jac. c.* 5. 21 *Jac. c.* 12. *Wingate Abr. Stat. Title Evidence.*

And all Actions, brought against such Officers, must be laid in the County where the fact was done, and in case where the verdict passes for the Defendant, or the Plaintiff is Non-suit, or discontinues his suit, these Officers shall be allowed double costs, to be recovered as other Defendants recover their costs. 7 *Jac. c.* 5. 21 *Jac. c.* 12. *Wingate Abr. Stat. Tit. Evidence.*

The form of the Constables Oath is as followeth:

YOu shall swear well and faithfully to serve our Soveraign Lord the King, and the Lord of the Manor, in the Office of a Constable; you shall see the Kings Peace to be well and duly kept and preserved to the utmost of your power; you shall Arrest all such persons as in your presence shall ride or go armed offensively, or shall commit or make any Riot, Affray, or other breach of the Kings Peace; You shall do your best indeavour that the Statute of Winchester *for the Watch in your Town be duly kept, and that Hue and Cry, and the Statutes for punishment of sturdy Beggars, Rogues, Vagabonds, Night-walkers, and other idle and wandring persons within your Liberties be duly put in execution: You shall do your best endeavour upon complaint to you made to apprehend all Felons, Barrators, Rioters, and persons*

making Affrays, and if any such persons shall make resistance with force, you shall levy Hue and Cry, and shall pursue them till they be taken; you shall have a watchful eye to such persons as shall maintain or keep any common house or place, where any unlawful Games or Plays are or shall be used, as also to such persons as shall frequent or use such places, or shall exercise or use any unlawful Games or Plays there, or elsewhere contrary to the Statute. At your Assizes, Sessions, or Leet, you shall present all and every the offences committed or done contrary to the Statutes made and provided for the restraint of inordinate hunting and tipling in Taverns, Inns, and Alehouses, and for repressing of drunkenness and prophane swearing. You shall true presentment make of all bloodshedding, Affrays, Outcries, Rescues, and other offences committed or done against the publick Peace, within your Limits: You shall well and truly execute all Precepts and Warrants to you directed from the Justices of Peace, and others in Authority in this County; and you shall well and duly according to your knowledge, power and abilities, do and execute all other things belonging to the Office of a Constable, so long as you shall continue in the said Office.

So help you God.

Or the Oath may be given to the Constable in short thus;

YOu shall swear That you shall well and truly execute the Office of a Constable (or Tythingman for the Parish (or Tything) of C. for this next year, or half a year, as the case is) and until another be sworn in your Room,

or you ſhall be legally diſcharged thereof.
So help you God.

Note, That the Statute of 25 *Car.* 2. *ch.* 2. which appoints Officers and others to take the Oaths of Supremacy and Allegiance, and the Teſt therein mentioned doth not extend to the Offices of High Conſtable, Petty Conſtable, Tythingman, Headborough, Overſeers of the Poor, Churchwardens, Surveyor of the Highways, and the like inferior Civil Offices.

CHAP. II.

The Conſtables Office about Affrays.

IF any man ſhall make an Affray or Aſſault upon another in the preſence of the Conſtable, or if any man in his preſence ſhall threaten to kill, beat or hurt another, or ſhall be in a fury ready to break the Peace, in every of theſe caſes the Conſtable may commit the Offenders to the Stocks, or to ſome other ſafe cuſtody for the preſent (as the quality of the perſon requireth) until ſuch time as he can carry them before ſome Juſtice of the Peace, or to the Gaol, until they ſhall find Sureties for the Peace, which Surety the Conſtable himſelf may alſo take by an Obligation to be ſealed and delivered to the Kings uſe: and ſo was the opinion of *Walmeſly*, *Owen*, and *Beamond*, in the Argument of *Sharrat's* Caſe, *Trin.* 35 *Eliz. Co. Ban. Rot.* 1458. But my Lord *Anderſon* ſaid that the Conſtable ought to carry the parties that he ſhould ſee breaking the

Peace, before a Justice to find Sureties for the Peace; and at this day this is the most usual and safest way, *Vide* 3 *H.* 4. 9. *&* 10. *Bacons use of the Law, fol.* 5. *Dalt. J. P. c.* 1. *fol.* 4, 5. *& c.* 118, *fol.* 340. *Kitchin's Court-Leet, &c. fol.* 69. *a.* 22 *E.* 4. *fol.* 35.

In case where the Constable had taken such an Obligation to the use of the King, he was to send it into the Exchequer or Chancery, from whence process should be awarded to levy the debt, if the Peace were broken. *Dalton's J.P. c.*1. *fol.*5. *Bacon's use of the Law* 5.

The Constable in the Kings Name ought to command Affrayers, or such as are about to make an Affray, to avoid or surcease, and to depart on pain of Imprisonment; and if the Constable being present at an Affray, doth not his best endeavour to part them, it being presented by the Enquest at the Sessions of the Peace, such Constable may be fined for it. *Dalt. J. P. c. & fol.*33.

If any person be dangerously hurt in any Affray, the Constable, (or any other person) may arrest the offender, and carry him to a Justice of Peace, who is either to Bayl him till the next Gaol Dellvery, or to commit him to the Gaol until it be known whether the party hurt will live or dye thereof. *Bro. faux Impr.* 35. 44. 3 *H.*7. 1. 10 *H.*7. 20. *Lamb.* 136. 38 *E.*3, 8. *&* 11. *Dalt. J. P. ch.* 8. *fol.*33. *Kitchin fol.*68.

If the Affrayers will not depart but shall draw weapons, or give any blow, the Constable may command assistance of others for the pacifying of the Affray, and may justifie the beating or wounding of them, if they make resistance,

resistance, and if either the Constable, or any in his Assistance be slain, it is murder in the Affrayers. *Lamb.* 135. 1 *H.* 7. 7. 3 *H.* 7. 10. *Co. lib. rep. fol.* 40. & 64. 91. *lib. rep. fol.* 161.

The Constable (if the Affray be great or dangerous) may in the Kings name make Proclamation that the Affrayers shall keep the Kings peace, and depart, &c. And if the Affray be in an house, and the doors shut, the Constable may break into the house to see the peace kept, though none of the parties have taken any hurt; and if the Affrayers fly into another mans house, the Constable upon such pursuit may break into such house, and apprehend the Affrayers. *Dalt. J.P. ch.* 8. *fol.* 34. 33. *Lamb.* 188. 7 *E.* 3. 19.

And where the Affrayers fly into another County, the Constable seeing this, may freshly pursue, or cause them to be pursued, and to be taken there; but then in such case the Constable can meddle no further (but as every private man may do) to carry them before some Justice of Peace of the County where they are taken, to cause them to find Sureties for the Peace, *Crompt.* 146. *b.* & 192. *b. Dalt. ch.* 8. *fol.* 34. & *ch.* 118. *fol.* 340. *Rlo.* 37.

But in case where the Affrayers flie into a Franchise only within the same County where the Affray was, there the Constable, seeing this, may freshly follow and take them out of such Franchize, *Crompt.* 146. *Dalt. J. P. ch.* 8. *fol.* 84.

Note, that after the Affray be over, the Constable without a Warrant cannot arrest the Affrayers, except some person be in peril of death by some hurt there received; but before

the

the Affray begun, and during the time thereof, he may arrest them without Warrant. 28. H. 8. Bro. faux Impr. 6. Dalt. J. P. ch. 8. fol. 34. Kitchin 69. b. Where the Affray is made in the presence or sight of the Constable, and one cometh to the Constable and telleth him of it, and wisheth him to go and see the Peace kept, and the Constable will not, in such case it is held by some that the Constable shall not be fined by the Justices at their Sessions upon presentment thereof by the grand Enquest; but quere hereof, for it is against his Oath if he do not see the Peace kept. Cromp. 146. Dalt. J. P. chap. 8. fol. 33.

Note that it is properly no Affray, unless there be some weapons drawn, or some stroke given or offered to be given, or other attempts to such purpose: for if men shall contend only in lue words, this is no Affray, neither may the Constable for words only lay hands upon them, unless they shall threaten to kill, beat, or hurt one another, and then may the Constable arrest such persons, and carry them before a Justice of Peace, to find Sureties for the keeping of the Peace; and yet such threatning as aforesaid, is no Affray. Bro. faux Impr. 6. Cromp. 135. Dalt. J. P. ch. 8. fol. 34. & 158.

If an affray or an assault be made upon the Constable himself, he may not only defend himself, but also put the parties offending in the Stocks, till such time as he can carry them to a Justice of Peace, or to the Gaol; and if he be not able to arrest them himself, he may then call others to his assistance, who

may

may juſtifie to arreſt the parties. 5 *Hen.* 7. 6. *Bro. Jaux Impr.* 41. 3 *Hen.* 4. *fol.* 18. & *Dalton's* 17. *P. chap. & fol.* 35. *Kitchin pag.* 69. *a.*

CHAP. III.

The Conſtables Office about Alehouſes, &c.

If the Conſtables and Churchwardens upon a Warrant directed to them from one or more Juſtices of the Peace, againſt an Innkeeper, Alehouſe-keeper or Victualler, for ſuffering Tipling in his houſe, or for his meaſure of Ale and Beer, do not reſtrain and levy the forfeitures according to the Statute; that is 20 *s.* for ſelling leſs then a full Ale quart of the beſt Ale or Beer, or two quarts of the ſmall for one penny, and 10 *s.* for Tipling in his houſe; or if there be no diſtreſs to be found, if the Officers neglect by the ſpace of twenty days to certifie the ſame default of diſtreſs to the Juſtices, in any of theſe Caſes the Officers forfeit forty ſhillings to the uſe of the Poor, to be levied by diſtreſs on their Goods by Warrant made to any indifferent perſon, from any one or more Juſtices of the Peace under their Hand and Seal, and for want of Diſtreſs, the Delinquents by any ſuch Juſtice of the Peace may be committed to the Gaol, there to remain until they have paid the ſame forfeitures; but note the diſtreſſes in all theſe caſes muſt be kept ſix days, and if the parties do not within that time pay the forfeitures, then the diſtreſs is to

be

be appriſed and ſold, and the *overplus* returned to the owners. *Wingate Abr. Stat. Title Alehouſes, &c. 1 Jac. ch. 9. 1 Car. 1. ch. 4. Dalton's J. P. ch. 7. fol. 28. Young's Vade Mecum, Sect. 1, 2, 3.*

Or if the Conſtable, or other inferiour Officer of the Pariſh, ſhall neglect to execute the Juſtices Warrant againſt Townſmen or others, for Tipling in any Inn, Alehouſe, or Victualling houſe, or againſt men for being drunk, that is 3 *s. 4 d.* for Tipling, and 5 *s.* for being drunk, to be levied by diſtreſs on the offenders Goods, and ſale thereof, after ſix days default of payment, rendring the overplus to the owner, and for want of diſtreſs, and not being able to pay, the Tipler is to be ſet in the Stocks for the ſpace of four hours, and the Drunkard ſix hours; and if in any of theſe caſes the Conſtable neglect to do his duty, he forfeits ten ſhillings to the uſe of the Poor, to be levied upon his Goods by diſtreſs and ſale as aforeſaid; theſe offences are to be enquired of within ſix months after they are committed: And all Conſtables, Churchwardens, Headburroughs, Tythingmen, Aiecunners, and Sidemen, may be charged on their Oaths to preſent the ſaid Offences. *4 Jac. ch. 5. 21 Jac. ch. 7. Young's Vade Mecum, Sect. 4. 5. Dalt. J. P. chap. 7. fol. 28. Wingates Abr. Stat. Title, Alehouſes, &c.*

If any keep an Alehouſe without Licence, he forfeits Twenty ſhillings to the uſe of the Poor, which the Conſtable and Churchwardens (upon Warrant from the Juſtice before whom the offence is proved) ſhall levy by diſtreſs upon the offenders Goods, and for-

default

default of payment within three days after the ſaid diſtreſs taken, then the ſame is to be ſold for to ſatisfie the penalty, rendring the overplus to the owner; and in caſe the Delinquent hath not wherewithal to ſatisfie, the ſaid Juſtice may commit him to the Conſtable to be openly whipped, and if the Conſtable neglect to execute the Warrant, or do refuſe, or do not execute upon the ſaid offender the puniſhment of whipping, then the Juſtice may commit the Conſtable to the Gaol without Bail, there to remain until the ſaid Offender ſhall be by him puniſhed as aforeſaid, or until the Conſtable ſhall pay 40 *s.* to the uſe of the poor of the Pariſh. 3 *Car.* 1. *ch.* 3. *Wingate Abr. Stat. Tit. Alehouſes, &c. Dalton's J. P. ch.* 7. *fol.* 31, 32.

If a common Inn-keeper or Alehouſe-keeper will not lodge a Traveller, he proſering to pay ready money for his victuals, then in ſuch caſe the Conſtable may cauſe ſuch Inn-keeper, Alehouſe-keeper, *&c.* to be Indicted at the Seſſions or Aſſiſes, where he may be fined and impriſoned, or the party grieved may have his Action of the caſe againſt the Inn-keeper or Alehouſe-keeper; but note, they are not bound to lodge or find Victuals without ready money firſt paid, if it be required. *Co.* 9. *Lib. Rep. fol.* 87. *b.* 10 *H.* 7. 8. 4 *H.* 7. 22. 5 *E.* 4. 2. *Dalton's J. P. c.* 7. *fol.* 28.

CHAP.

CHAP. IV.

The Constables Office about Arms, &c.

IF any person shall ride or go armed offensively before the Kings Justices, or before any other the Kings Officers or Ministers during their Office, or in Fairs or Markets or elsewhere by Night or by Day in Affray of the Kings People, and breach of the Peace, or wear or carry any Guns, Daggers, or Pistols charged; in such case the Constable upon the sight hereof may seize and take away their Armor and other weapons, and cause them to be apprized and answered to the King as forfeited, and carry them before a Justice to find Sureties for the Peace. *2 E. 3. cap. 3. 7 R. 2. 13. 20 R. 2. c. 1. 14 E. 3. fol. 33. Co. 3. part. Inst. fol. 162. Dalt. J. P. c. 9. fol. 35. & 189.*

But note the Kings Servants in his presence, Sheriffs and their Officers, and other the Kings Ministers, and such as be in their Companies assisting them in the execution of their Office, and all others in pursuing Hue and Cry, where any Felony or other offences against the Peace be done, may lawfully bear Armor or Weapons. *2 E. 3. chap. 3. Co. 5. Lib. Rep. fol. 72. in S. John's case, 3 H. 7. fol. 1. Dalt. J. P. ch. 9. fol. 86.*

All High Constables, Petty Constables, and other Officers within their several Parishes, are to be aiding and assisting to such persons as shall have warrant from the Lord Lieutenants, or any two of their Deputies under their

their Hands and Seals, to ſearch for and ſeize all Arms in the cuſtody and poſſeſſion of any perſon and perſons whom the ſaid Lieutenants or their Deputies ſhall judge to be dangerous to the Peace of the Kingdom, and to ſecure the ſame, and give account thereof to the ſaid Officers; but ſuch ſearch is to be made in the day time only between Sun riſe and Sun ſet, and not otherwiſe, unleſs it be in Cities and their Suburbs, Towns Corporate, and Market Towns, or houſes within the Bills of Mortality, in which places ſearch may be in the night, if the Warrant ſo direct. No dwelling houſe of any Peer of the Realm is to be ſearched, unleſs the Warrant be from the King's Majeſty under his Sign-Manual, or in the preſence of the Lieutenant or one of the Deputy Lieutenants of the ſaid County or Riding. And in all places and houſes aforeſaid, where ſearch is made, in caſe of Reſiſtance to enter with force; and ſuch Arms ſo ſeized, where the Lieutenants or their Deputies, or any two of them think fit, may be reſtored to the Owners again. *14 Car. 2. c. 3.*

CHAP. V.

The Conſtable's Office about Foreign Bone-Laces, Cut-work, Imbroidery, &c. and French Goods.

THE Conſtables upon Warrant to them directed from the Juſtices of Peace or chief Officers of the Cities, Towns Corporate, &c. are to ſearch within their reſpective Coun-

Counties, Cities, Towns, &c. in the Shops being open, Ware-house and dwelling house of such person or persons, who shall be suspected to have any Foreign Bone Laces, Cutworks, Imbroideries, Fringes, Bandstrings, Buttons, or Needle-works made of Thred, Silk, or any or either of them, made in the parts beyond the Seas, and where they find any such to seize the same. 14 Car. 2. ch. 13.

No French Wine, Vinegar, Brandy, Linen Cloath, Silks, Salt, Paper, or any Manufactures, made of or mixed with Silk, Thread, Wool, Hair, Gold or Silver, or Leather, being of the Product or Manufacture of any the Dominions of the French King, shall after the 20th of *March* 1677. during the Term of three years, or before the end of the first Session of Parliament next after the expiration of the said three years be imported into *England*, *Wales*, or Town of *Berwick*, or Isles of *Jersey*, *Guernsey*, *Alderny*, *Sark* or Isle of *Man*, mixt or unmixt with any Commodity of the Product of any other Countrey; such Importation and vending the said Commodities imported contrary to this Act, being by the said Act declared a Common Nusance: And such Goods are to be seized and caried into his Majesties Warehouse, and the Vessel stayed till search can be made: And an Information shall be the next Term or sooner exhibited into the Kings Bench or Exchequer; And if the Jury find that they are French Goods, Judgment shall be, That the Wines and Brandy shall be staved and spilt upon the ground, and the other Commodities publickly burnt and destroyed; The Importers to forfeit

forfeit the value: They in whoſe hands they ſhall be ſeized, or who ſold them, the like for the firſt offence: And for the ſecond offence the like Forfeiture, and to be incapable to exerciſe any Trade, or execute any Office or Imployment about any part of the Kings Revenue; And if he, who ſells or expoſes them to ſale, be a Shopkeeper, he ſhall over and above the Penalties aforeſaid, be impriſoned Twelve moneths: One moiety of the Forfeitures to be to the Poor of the Pariſh, where the Goods ſhall be firſt Landed or Seized; the other to the Informer, to be recovered by Action of Debt, Bill, Plaint or Information, in any of his Majeſties Courts of Record. *Stat.* 29 & 30 *Car.* 2. *th.* 1.

If ſuch Commodities be brought in as Reprizal, or Reſcue, they ſhall not be landed or ſold, under the Penalties aforeſaid, but being adjudged good Prize, ſhall be exported again to any Foreign Market in the ſame Veſſel: If any ſuch Commodities during the ſaid three years, and after the firſt of *May* 1679. (at what time ſoever Imported) ſhall be found, vended or uttered, they ſhall be ſeized, and be ſubject to the like Information, Judgment and Execution; and the Perſon in whoſe cuſtody they ſhall be found, or that ſhall vend them, ſubject to the like Penalties as aforeſaid: The Informer who after ſeizure or ſtay of the Goods fraudulently delay's the Proſecution, ſhall forfeit 500 *l.* one moiety to the Poor of the Pariſh, where he was reſiant, the other to him that ſhall inform againſt him, to be recovered as aforeſaid. 29 & 30 *Car.* 2. *chap.* 1.

Alſo

All Officers of the Cuſtoms, Sheriffs, Mayors, Bayliffs, Conſtables and other Officers are injoyned to be aiding and aſſiſting in the due execution of this Act. *29 & 30 Car. 2. chap.* 1.

CHAP. VI.

The Conſtables Office about Iriſh Cattel.

IF any great Cattel, Sheep, or Swine, or any Beef, Pork, or Bacon (except ſuch as is for the neceſſary Proviſion of the reſpective Ships or Veſſels in which the ſame be brought, not expoſing the ſame or any part thereof to Sale) ſhall by any wiſe whatſoever be imported or brought from *Ireland*, or any other part beyond the Seas into the Kingdom of *England*, Dominion of *Wales*, or Town of *Berwick* upon *Tweed*; In ſuch caſe the Conſtable, Tythingman, Headborough, Churchwardens or Overſeers of the Poor, or any of them within their reſpective Liberties, Pariſhes, or places, may take and ſeize the ſame, and keep the ſame during the ſpace of eight and forty hours, in ſome publick or convenient place where ſuch ſeizure ſhall be made, within which time, if the owner or owners, or any for him or them ſhall make it appear unto ſome Juſtice of Peace of the ſame County where the ſame ſhall be ſo ſeized, by the Oath of two credible witneſſes that the ſame were not imported from *Ireland*, or from any other place beyond the Seas, (except the Iſle of *Man*) then the ſame, upon

the Warrant of ſuch Juſtice of Peace, are to be delivered to the owner or owners without delay. 18 *Car.* 2. *ch.* 2.

But in default of ſuch proof and Warrant, then the ſame to be forfeited and one half thereof to be diſpoſed to the uſe of the Poor of the Pariſh where the ſame ſhall be ſo found and ſeized: and the other half thereof to his or their own uſe that ſhall ſo ſeize the ſame. 18 *Car.* 2. *ch.* 2.

Such Cattel as are Imported from the *Iſle of Man*, (before excepted) into *England*, &c. are not to exceed the number of ſix hundred in one year, and they are to be of no other breed then of the breed of the *Iſle of Man*, and all to be landed at the Port of *Cheſter*, or ſome of the members thereof, and not elſewhere: 18 *Car.* 2 *ch.* 2.

This Act was to continue for ſeven years, and from thence to the end of the firſt Seſſion of the next Parliament: And is now by the Statute of 32 *Car.* 2. *ch.* 2. revived and made perpetual.

But theſe former Remedies not proving ſo effectual for the prevention of the tranſporting of the Cattel aforeſaid, it is further provided, That whenſoever, and as often as it ſhall happen, either through any fraudulent Agreement, or unfaithful Connivence of any Conſtable, Headborough, Tythingman, Churchwarden, or Overſeer of the Poor, or that it ſhall happen any otherwiſe howſoever, that any great Cattel, Sheep, Swine, Beef, Pork or Bacon, after the firſt Seizure of them or any of them, by virtue of the aforeſaid Act, ſhall be driven, brought, carried into

into, or found in any other Pariſh or Place, than where the ſame ſhall be firſt ſeized as aforeſaid; That then, and ſo often, and from time to time, it ſhall and may be lawful to and for the Conſtable, Tythingman, Headborough, Churchwarden, or Overſeer of the Poor of every or any ſuch other Pariſh or Place, where ſuch great Cattel, Sheep, Swine, Beef, Pork, or Bacon ſhall be brought, driven, or carried into, or found as aforeſaid, to ſeize, take, and diſpoſe the ſame, and every or any of them as forfeited, The one Moiety thereof to the Uſe of the Poor of ſuch other Pariſh or Place where ſuch Seizure ſhall be made, the other to the Uſe of ſuch Officer or Officers who ſhall ſeize the ſame as aforeſaid; Any other or former Seizure or Seizures, in any other Pariſh or Pariſhes, Place or Places, notwithſtanding. *Stat.* 20. *C.* 2. *ch.* 7.

And now by the Statute of 32 *Car.* 2. *ch.* 2. it is further Provided, That any Perſon may make ſuch ſeizures as well as the Conſtables, or other Officers or Inhabitants: And that to prevent fraudulent ſeizures, and compoſitions, the ſeizors ſhall within ſix days after conviction and forfeiture, cauſe the ſaid cattel, Sheep and Swine, to be killed; and the Hides and Tallow ſhall be to the ſeizor, and the remainder to be diſtributed by the Churchwardens and Overſeers amongſt the Poor of the Pariſh, where any ſuch great Cattel, Sheep or Swine ſhall be Imported or found.

The Seizor, Churchwarden or Overſeer, failing in his duty, ſhall forfeit forty ſhillings, for every one of the great Cattel, and ten ſhillings

shillings for every Sheep or Swine, which should have been so killed and distributed; one moiety to the Poor of the said Parish, the other to the Informer, to be levied by distress, and sale of the Offenders Goods, by Warrant from any one Justice of Peace; and for want thereof the offender to be committed to Gaol for three months without Bail.

Mutton and Lamb imported shall be subject to the like seizures, and the Importers and Sellers to the like Penalties, as for Importation of Beef, Pork or Bacon: And the like of Butter and Cheese imported from *Ireland*.

If any great Cattel, Sheep or Swine, which have been seized, be found alive in any other Parish or Place, they are to be seized again and killed for the benefit of the Seizor, and the Poor of that Parish or Place in manner aforesaid.

English or other Cattel, intermixed with Irish Cattel, shall be deemed Irish in all respects. 32 *Car.* 2. *ch.* 2.

CHAP. VII.

The Constables Office about Chimney-Money.

THE High Constables and Petty Constables Duties about Chimney money by the 14 *Car.* 2. *c.* 10. and the 15 *Car.* 2. *c.* 13. is now much altered, and particular Officers appointed for that purpose. 16 *Car.* 2. *c.* 3.

All Justices of Peace, Chief Magistrates, Treasurers, and Under-Treasurers, Constables, and other his Majesties Officers are within

within their ſeveral Limits and juriſdictions to be aiding and aſſiſting to his Majeſties Officers appointed for the collecting of the duty of Hearth-money. 16 *Car. 2. ch. 3.*

The Officers appointed by his Majeſty for the Chimney mony, once every year, being accompanied with the Conſtable, or Tything-man, Treaſurer, or Under-Treaſurer, or other publick Officer of the place, and in all Pariſhes and places where there are no Conſtables, Tything-men or other publick Officers as aforeſaid, there without any ſuch aſſiſtance, may enter in the day time into a dwelling or other Houſe, Edifice, Lodgings, and Chambers in any of the Inns of Court, or Chancery, Colledges, and other Societies, to ſearch and examine whether there be any more Fire-hearths and Stoves in the ſame then were formerly returned or certified, and what are increaſed and decreaſed ſince the laſt Certificate, and if they find any variance in the number returned, both the Officer and Officers appointed by his Majeſty, and the Conſtable or Tything-man, or other Officer aforeſaid, are to certifie the ſame under his and their hands to the Clerk of the Peace, *&c.* 16 *Car. 2. ch 3.*

If the party after Demand made by his Majeſties Officers, or their Deputies at the Houſe, Chamber or Place, where the duty ſhall ariſe or grow due, make default or refuſe to pay by the ſpace of one hour after ſuch demand, then the Officer or his Deputy may at any time with the aſſiſtance of the Conſtable, Tything-man, or other Officer as aforeſaid, in the day time levy the ſaid duty and all the Arrearages thereof, by diſtreſs and ſale of the Goods

Goods of the party or parties ſo refuſing or making default, rendring the overplus to the owners, over and above the duty and Arrearages, and neceſſary charges of taking the Diſtreſs; which Charges are not to exceed one Moiety of the Duty and Arrearages. 16 *Car.* 2. *ch.* 3.

Note that no Arrearages of Hearth-money are to be diſtreined for after the ſpace of two years next after ſuch duty becomes due: and if any violence, oppoſition, or injury be done by any perſon or perſons to any of his Majeſties Officers or their Deputies in the due execution of their Office, and the ſame proved by Oath before any one Juſtice of the Peace, or chief Magiſtrate, &c. ſuch Juſtice or chief Magiſtrate, &c. if they think fit, may ſend the Offender to the Common Gaol for any time not exceeding one month. 16 *Car.* 2. *c.* 3.

The Conſtables are to have two pence in the pound paid them by the Collector to whom they pay the Chimney-money by them collected within their Conſtableries, and are to pay no thing to the Collectors for their Acquittances 16 *Car.* 2. *c.* 3.

CHAP. VIII.

The Conſtables Office about Conventicles.

THE Statute of 16 *Car.* 2. *ch.* 4. againſt Conventicles is now expired.

By the *Stat.* 22 *Car.* 2. *cap.* 1. made againſt Seditious Conventicles; Every Conſtable, Headborough, Tything-man, Churchwarden, and Overſeers of the Poor, are authorized and required

quired to levy the fines aſſeſſed by the Juſtice of Peace, upon thoſe who ſhall be preſent at unlawful Conventicles, upon their Goods and Chattels, having firſt received a Warrant under the Hands and Seals of one or more Juſtices or Chief Magiſtrate, and forthwith deliver the money ſo levied to the ſame Juſtice of Peace, or chief Magiſtrate. And by Warrant from one or more Juſtice or Juſtices, or chief Magiſtrate, and reſpective Conſtables, Headboroughs and Tythingmen (Overſeers not named) may with what aid, force and aſſiſtance they think fit, after refuſal or denial to enter, break open into any houſe or other place, where they ſhall be informed any Conventicle is held, as well within Liberties as without, and take into their Cuſtody the perſons there unlawfully aſſembled, to be proceeded againſt according to this Act.

No Peers Houſe is to be ſearched, unleſs in preſence of a Lord Lieutenant, or two Juſtices of Peace, wherof one to be of the *Quorum*.

If any Conſtable, Headborough, Tythingman, Churchwarden, or Overſeer of the Poor, ſhall know or be credibly informed of any Conventicle within his Precinct, and ſhall not thereof inform ſome Juſtice of the Peace or chief Magiſtrate, and endeavour the conviction of the parties, but neglects his Duty, he forfeits five pound to be levied on his Goods: And any perſon ſued for acting by this Law, may plead the General Iſſue, and give the ſpecial matter in Evidence, and ſhall recover treble coſts. 22 *Car.* 2. *ch.* 1.

CHAP.

CHAP. IX.

The Constables Office about Clothiers.

THe Constables and other Officers, upon request to them made, are to be aiding and assisting to the Wardens and Assistants for regulating the Trade of Worsteds and other Stuffs called *Norwich* Stuffs, made within the City of *Norwich* and County of *Norfolk*. 14 *Car.* 2. *ch.* 5.

They are likewise to be (as often as they shall be thereunto required) aiding and assisting to the President, Wardens and Assistants, for Regulating the making of *Kidderminster* Stuffs, within the Borough and Parish of *Kidderminster*. 22 & 23 *Car.* 2. *ch.* 8.

Note, that the Act of 13 & 14 *Car.* 2. *ch.* 32. about the Manufacture of Cloth within the West-riding of the County of *York*, is expired.

The makers of Cloth must pay to their Carders, Spinners, and other Labourers their wages in ready money, and not in Wares, and shall deliver them Wool according to due weight on pain to forfeit six pence for every default; and the Carders, Spinners, Weavers, Fullers, Shear-men, and other Labourers are to do their work faithfully, on pain to forfeit double damages to the party grieved. 4 *E.* 4. *ch.* 1. *Fitz. J. P.* 203. *Wingate's Abr. Stat. Tit. Drapery.*

And every Justice of Peace, High-Constable, or Steward of Leet, out of a Corporation, and in a Corporation every head-Officer where no Master is, and every Master shall hear and deter-

mine the complaints of every such Clothier or Draper, as well for non-payment of the Labourers wages, as the damages aforesaid, by due examination of the parties, for which said damages they have power to commit the offenders to the Goal, until the party grieved shall be satisfied. 4 *E.* 4. *ch.*1. *Wingate's Abr. Stat. Tit. Drapery.*

The High Constables also, or Justices of the Peace, have power to enter into any House, Lands, or other place, to search for any Tenters, Ropes, Rings, Headwrinches, or other Engines, for stretching of Cloth, and if they find any to deface them; and if the owners shall afterwards use them again, then these Officers may take and sell them, and give the money to the poor. 39 *Eliz. ch.* 20. *Wingate's Abr. Stat. Tit. Drapery.*

CHAP. X.

The Constables Office about the Customs.

BY the 14 *Car.* 2. such person or persons as are authorized by Writ of Assistance, under the Seal of his Majesties Court of Exchequer, are to take a Constable, Headborough, or other publick Officer inhabiting near the place, and in the day time are to enter and go into any House, Shop, Cellar, Warehouse, Room, or other place, and in case of Resistance, break open the Doors, Chests, Trunks, and other package, there to seize, and from thence to bring any kind of Goods or Merchandize whatsoever, prohibited and uncustomed, and to put and secure the

the ſame in his Majeſties Store-houſe in the Port next to ſuch place where the ſeizure ſhall be made. 14 *Car.* 2. *ch.* 11.

All Officers belonging to the Admiralty, Captains, and Commanders of Ships, Forts, Caſtles and Blockhouſes, and all Juſtices of Peace, Mayors, Sheriffs, Conſtables and Headboroughs, and other the Kings Majeſties Officers and Subjects whatſoever, whom it may concern, are to be aiding and aſſiſting to all and every perſon and perſons which are or ſhall be appointed by his Majeſty to manage his Cuſtoms: and if the Officers of the Cuſtoms, or any acting in aid of them, ſhall be ſued, indicted, proſecuted or moleſted, ſuch perſons, their Heirs, Executors and Adminiſtrators, may plead the General Iſſue, and give the ſeveral Acts relating to the Cuſtoms, or any of them in Evidence, in any of his Majeſties Courts of Juſtice. 14 *Car.* 2. *ch.* 11.

The Statute of 12 *Car.* 2. *ch.* 19. about Cuſtoms, was to continue but to the end of the firſt Seſſion of the next Parliament, and is now Expired.

CHAP. XI.

The Conſtables Office about Setting-Dogs, &c.

EVery Conſtable or Headborough, (upon a Warrant under the hands of two or more Juſtices of the Peace) hath power to ſearch the houſes of perſons ſuſpected to have any Setting-Dogs, or any manner of Nets, for taking of Pheaſants or Partridges, and the Dogs and Nets there found, to take, carry away, detain, kill, deſtroy,

and cut in pieces. *Dalt. J. P. ch.* 37. *fol.* 90. 7 *Jac. c.* 11.

And yet note, that they cannot by force of that Statute of 7 *Jac.* ſearch the houſes of ſuch as have Free Warren, or are Lords of any Mannor, or have Freehold of Forty pounds by year or more, of ſome Eſtate of Inheritance, or Eighty pounds by the year for Term of Life, or be worth in Goods Four hundred pounds, for ſuch perſons might by that Act have kept Nets or Dogs to take Pheaſants or Partridges, in their own grounds or precincts, 7 *Jac. ch.* 11. *Paſch. J. P. ch.* 37. *fol.* 90.

But now by a later Statute, *viz.* 22 & 23 *Car.* 2. *ch.* 25. None ſhall keep for themſelves or any others, any Guns, Bows, Dogs, Nets, or other Engins, for the taking or killing of Conies, Hares, Pheaſants, Partridges, or other Game, unleſs he hath Lands and Tenements, or ſome other Eſtate of Inheritance, or for term of life, of the clear yearly value of One hundred pounds, or Leaſe or Leaſes of ninety nine years, or for ſome longer term of the clear yearly value of One hundred and fifty pounds, or be the Son and Heir apparent of an Eſquire, or other Perſon of higher degree, or Owner or Keeper of ſome Forreſt, Park, Chaſe, or Warren ſtocked with Deer, or Conies, which Owners or Keepers are allowed, to have them for their neceſſary uſe, in reſpect of ſuch Forreſts, Parks, Chaſes or Warrens.

And the Lord of any Mannor or Royalty, not under the degree of an Eſquire, may give authority to the Game-Keeper within his Mannor, or Royalty, and any Juſtice of Peace by Warrant under his Hand and Seal to any other

other perſon or perſons in the day time to ſearch the Houſes, Out-houſes, or other places of perſons ſo prohibited as aforeſaid, and upon good ground ſuſpected to have ſuch Guns, Bows, Dogs, Nets, or other Engins, and to ſeize them for the uſe of the Lord of the Manor or Royalty, or otherwiſe to deſtroy them. 22 & 23 *Car.* 2. *ch.* 25.

CHAP. XII.

The Conſtables Office about Eſcapes and Arreſts.

IF a Conſtable, or any other, which hath a Priſoner under Arreſt for Felony, or Suſpicion thereof, voluntarily letteth or ſuffereth the Priſoner to go where he will at liberty (though this be breaking of Priſon) yet it is Felony in the Gaoler, Conſtable, or him that letteth ſuch priſoner eſcape, but it is no Felony in the priſoner; but if ſuch a priſoner ſhall eſcape by the negligence of his Keeper, and againſt his will and knowledge, then it is Felony in the priſoner, becauſe a breach of Priſon, and the Gaoler, Conſtable, &c. may be Fined by the Judges or Juſtices for ſuch Eſcape. *Bro. Coron.* 112. 224. 316. 454. & *Bro. Eſcape* 31. *Stamford fol.* 32. 44. *Aſſ. Pl.* 18. *Dyer fol.* 99. *Dalt. J. P. c.* 106. *fol.* 272.

If the Conſtable, or other Officer, ſhall voluntarily ſuffer a Thief, being in his cuſtody, to go into the Water, and drown himſelf, this Eſcape is Felony in the Conſtable, and the drowning makes the Thief *Felo de ſe*; but if the

Thief ſhall ſuddenly (without the aſſent of the Conſtable) kill, hang, or drown himſelf, this is then but a negligent Eſcape in the Conſtable, and Fineable as aforeſaid. *Dalt. J. P. ch 106. fol. 272.*

The voluntary letting of a Felon to eſcape before he be arreſted for the felony, is no ſelony in the party that ſuffereth him to eſcape; but if the Conſtable ſuffer one to eſcape when he knows he hath committed a Felony; in ſuch caſe he may be indicted and fined for ſuffering the eſcape; and *quære* if it do not make him Acceſſary to the Felony. *9 H. 4. 1. Stam. 32. Bro. Eſcape. 43. Dalt. J. P. c. 106. f. 272.*

If a man be Arreſted for ſuſpicion of Felony by the Conſtable, or other perſon, and after they ſhall have Intelligence that there is no ſuch Felony committed, here they may ſet the party Arreſted at Liberty again, and they ſhall not be charged with the Eſcape; for there can be no Felon, where there is no Felony committed. *13 H. 7. 7. & Cromp. 40. Dalt. J. P. c. 106. fol. 275.*

But if a Felony be committed indeed, and one is Arreſted for the ſame, or for Suſpicion thereof; though the Conſtable or other perſon that made the Arreſt, ſhall after have certain Intelligence and knowledge that the Party Arreſted is not Guilty of the offence; yet they may not ſet the party at liberty, for he muſt not now be delivered by any mans diſcretion, but by due courſe of Law, otherwiſe it will prove a voluntary Eſcape, and ſo Felony, or at leaſt Finable. *Cromp. 40. 44 Aſſ. 12. Dalt J. P. c. 106. fol. 275.*

In all caſes of Miſdemeanor, where a private perſon hath Authority to Arreſt any for any offence,

offence, it is required for to carry and deliver the Priſoner to the Conſtable, or ſome other Officer. *Vide* 20 *E.* 4. 6. *Dalt. J. P. c.* 118. *fol.* 338.

But in caſe where a Juſtice of Peace, Conſtable, or other Officer comes to a Felon to arreſt and take him, and he perceiving, flies into another County before he can be taken, in ſuch caſe the Felon ſhall be carried before ſome Juſtice of Peace of that County where he is taken, and muſt be committed to the Gaol of that County, although the Felony were committed in another County. *Bro. faux Impr.* 25. 11 *E.* 4. *fol.* 5. *a. Dalt. J. P. ch.* 118. *fol.* 340.

If a man be Arreſted for Felony, and the Conſtable carry him to the Gaol, and the Gaoler will not receive him, then the Conſtable muſt bring him back to the Town where he was taken, and that Town ſhall be charged with the keeping of him until the next Gaol Delivery, by the opinion of the Book, 10 *H.* 4. or the Conſtable may in ſuch caſe keep the Priſoner in his own houſe, as it hath been held by ſome. See 11 *E.* 4. *Bro. faux Impr.* 25. *in fine. Dalt. J. P. ch.* 118. *fol.* 340, 341.

But in ſuch caſe where the Gaoler refuſes to receive a Priſoner as above-ſaid, or takes any thing for receiving him, upon Information thereof to the Juſtices of the Gaol Delivery, they will puniſh him for his offence. 4 *E.* 3. *c.* 10. *Poulton Priſon* 6. *Dalt. J. P. ch.* 118. *fol.* 341.

The Conſtable, or other Officer, that ſhall Impriſon in the Stocks any Felon, may lock the Stocks, and if need be, may alſo put Irons on the Priſoner, and when he conveyeth him to the Gaol, or to the Juſtice, he may pinion him,

or otherwiſe make him ſure, ſo that he cannot eſcape. *Dalt. J. P. ch.* 118. *fol.* 342.

CHAP. XIII.

The Conſtables Office about Exciſe.

THoſe Officers under the Commiſſioners of Exciſe, called Gagers, are to have the Conſtable along with them, when they enter by night into the Houſes of any Brewer, Inn-keeper, Victualler, &c. to Gage their Coppers, Fats, or Veſſels, or to take an Account of their Beer, Ale, Worts, Perry, Syder, Strong-waters, Metheglin, Mead, Coffee, Chocolatte, Sherbet or Tea, brewed, made or diſtilled in the ſaid Houſes. 12 *Car.* 2. *c.* 23, 24.

Such perſons as ſhall be convicted before the Juſtices of Peace, or Commiſſioners of Exciſe, of any offence and Forfeiture within the Acts for Exciſe; The Conſtables, upon Warrant to them directed from the Juſtices of Peace, are to levy the penalties upon the Goods of the offenders by diſtreſs and ſale thereof, rendring the overplus to the owners, and for want of diſtreſs, they are to carry the party to the Gaol, there to remain till ſatisfaction be made. 12 *Car.* 2. *ch.* 23, 24.

The Conſtables are alſo upon Warrant to them directed to Summon all Alehouſe-keepers, &c. to appear before the Commiſſioners of Exciſe at ſuch days and places as ſhall be appointed in the ſaid Warrants from time to time.

CHAP.

CHAP. XIV.

The Conſtables Office about Fiſh.

THE Conſtables and Churchwardens, by Warrant from any one or more Juſtices of the Peace (where any offence is committed in deſtroying the ſpawn and breed of Fiſh, along the Sea-ſhore, or in any Haven or Creek, or within five miles of the mouth of any Haven or Creek, by Fiſhing with Nets of leſs Meſh then three Inches and an half between knot and knot) are to levy the penalty by diſtreſs and ſale of the offenders Goods, rendring the overplus to the owners; the penalty is Ten ſhillings and forfeiture of their Nets. 3 *Jac. c.* 12. *Wingate's Abr. Stat. Tit. Fit. Tiſh. Fiſhers and Fiſhing.*

The Juſtices of Peace of the Counties of *Worceſter*, *Salop* and *Glocester*, upon their own knowledge, or upon Information that any perſon hath made uſe of any Net, Engine or Device in the River of Severn, whereby any *Salmon*, *Trout* or *Barbel* under the length appointed by the Statute of 1 *Eliz.* ſhall be taken or killed; or hath fiſhed with any Net for *Salmon*, *Salmon-mart*, *Salmon-Peal*, *Pike*, *Carp*, *Trout*, *Barbel*, *Chub*, or *Grayling*, the meſh whereof is under two inches and a half ſquare from knot to knot, allowing to each meſh four knots, or above twenty yards in length, and two yards in breadth, or above fifty yards in length, and ſix yards in breadth in the wing of the Net, in the ſaid River from *Ripplelochlake* to *Glouceſter Bridge*, or above ſixty yards in length below *Glouceſter Bridge*, and ſix yards in breadth in the wing of the Net,

or hath fiſhed with two of thoſe Nets fixed together, or uſed any Net or device for taking the fry of Eels, or whereby the Spawn of Fiſh ſhall be deſtroyed, ſhall iſſue out Warrants under the Hands and Seals of any two of them in their reſpective Counties, to the under-Conſervators of the ſaid River, or to any Conſtable, Tything-man or Headborough, to ſearch in the day time in all ſuſpected Places, for ſuch unlawful Inſtruments, and to ſeize them, and bring them to the Quarter-Seſſions to be burnt or deſtroyed. 30 *Car.* 2. *ch.* 9.

If any Ling, Herring, Cod, or Pilchard, Freſh or Salt, dried or bloated, or any Salmons, Eels or Congers, taken by Foreigners, Aliens to the Kingdom of *England*, ſhall be imported, uttered, ſold, or expoſed to ſale in this Kingdom; in ſuch caſe the Conſtable, Headborough, &c. or any other perſon may take and ſeize the ſame, and one half thereof muſt go to the uſe of the Poor of the Pariſh where the ſame is ſo found and ſeiſed, and the other half to the uſe of the party that ſeizes the ſame. 18 *Car.* 2. *c.* 2.

CHAP. XV.

The Conſtables Office about Forcible Entries, &c.

IF a Conſtable, or any private perſon of the ſame County do refuſe to attend and aſſiſt the Juſtices of Peace, upon requeſt to remove a Force, or to convey the parties to the Gaol, he may be impriſoned for his neglect, and make Fine

to

to the King. 15 *R.* 2. *ch.* 2. *Dalt. J. P. c.* 22. *f.* 57.

CHAP. XVI.

The Constables Office about Hedge-breaking, &c.

ALL such Lewd persons as are convicted before a Justice of Peace, for taking away any Corn growing, Robbing of Orchards, breaking Hedges, &c. and their Procurers, and Receivers knowing the same, if they cannot give the Parties grieved such satisfaction as the Justice shall think fit, then the Justice may commit him to the Constable to be whipped for the first offence, and the like pain for the second offence. And if the Constable or other inferior Officer, do not by himself, or some other, see the same be done accordingly, then the Justice may commit such Officer to the Goal, there to remain without Bail, until the said offender be by the said Constable, or some other by his procurement, whipped as aforesaid, and this by the 43 *El. ch.* 7.

But now by the 15 *Car.* 2. every Constable, Headborough, or other person, in every County, City, Town-Corporate, or other place, where they shall be, Officers and Inhabitants, have power to apprehend, or cause to be apprehended such persons as they suspect, for having or carrying, or any wise conveying, any Burthen or Bundles of any kind of Wood, Underwood, Poles, or young Trees, or Bark or Bast of any Trees, or any Gates, Styles, Posts, Pails, Rales, or Hedge-

Hedge-wood, Broom or Furze; and any Conſtable, Headborugh, &c. by Warrant under the Hand and Seal of one Juſtice, &c. may enter into the Houſes, Out-houſes, Yards, Gardens or other places belonging to the houſes of ſuch perſons as they ſuſpect to have any Woods, Underwoods, &c. and whereſoever they ſhall find any, ſuch to apprehend, or cauſe to be apprehended the perſons ſuſpected for cutting the ſame, and thoſe alſo in whoſe houſes or other places belonging to them any ſuch Wood, Underwood, &c. ſhall be found, to carry before ſome Juſtice of Peace of the County, City, &c. and if the party cannot give a good account to the Juſtice how he came by the ſame Wood, &c. by the conſent of the owner, ſuch as to ſatisfie the Juſtice, or ſhall not within ſuch time as the Juſtice appoints, produce the party of whom he bought it, or ſome other credible witneſs to depoſe upon Oath ſuch ſale of the ſaid Wood, &c. then ſuch perſon ſhall be deemed convicted of the cutting and ſpoiling Wood, &c. within the meaning of the Statute of 43 *Eliz.* aforeſaid; and for the firſt offence, if they do not give the owner ſuch ſatisfaction, and within ſuch time as the Juſtice ſhall appoint, and pay over and above down preſently to the uſe of the Poor of the place where the offence is committed, ſuch a ſum of money as the Juſtice ſhall appoint, not exceeding ten ſhillings, then the Juſtice may commit the party offending to the Houſe of Correction for ſo long time, not exceeding one Month, as he ſhall think meet, or otherwiſe to be whipped by the Conſtable or other Officer; and if ſuch perſon offend again, and be convicted as before, then he muſt be

ſent

ſent to the Houſe of Correction for one month, and there held to hard labour; and if he offend the third time, and be convicted, then he muſt be uſed as an incorrigible Rogue. 15 *Car.* 2. *ch.* 2.

And if any perſon buy any burthens of Wood, Poles, Sticks, Underwood, &c. of any who may juſtly be ſuſpected to have ſtoln, or unlawfully come by the ſame; then upon complaint to a Juſtice of Peace, Head-Officer, &c. if upon examination by Oath, &c. he find that the ſame were bought of ſuch perſon as aforeſaid, then the Juſtice may order the party that bought the ſame to pay the treble value of the Wood, &c. to the party from whom they were ſtoln or unlawfuliy taken; and in default of preſent payment, the Juſtice may iſſue out his Warrant to the Conſtable to levy the ſame by diſtreſs and ſale of the Offenders Goods, rendring the overplus to the owner, and for lack of ſuch diſtreſs, then to commit the party to the Gaol at his own charge, there to remain one month without Bail. 15 *Car.* 2. *ch.* 2.

Note, that none is to be puniſhed by this Law, who hath been puniſhed by a former Law for the ſame offence, nor is any to be queſtioned for any offence within this Statute, unleſs it be within ſix weeks after the offence committed. 15 *Car.* 2. *ch.* 2.

CHAP.

CHAP. XVII.

The Conſtables Office about High-ways.

THe Conſtables and Churchwardens of every Pariſh ſhall yearly, upon *Tueſday* or *wedneſday* in *Eaſter* week, call together a number of the Pariſhioners, and then make choice of Two of the Pariſh to be Surveyors of the High-ways the Year following, who ſhall forthwith take that Office upon them, on pain to forfeit twenty ſhillings a piece, 2 & 3 *Ph. & Mar. ch.* 8.

The Conſtables and Churchwardens are then alſo to appoint ſix days betwixt that and the four and twentieth day of *June*, for the amendment of the High-ways, and to give publick notice thereof in the Church the next Sunday after. 2 & 3 *P. & M. ch.* 8. & 5 *El. ch.* 13.

Stewards in Leets have power to enquire after the breach of the Act of the 2 & 3 *P. & M.* about High-ways, and to ſet Fines upon ſuch as make default, at their diſcretion, and ſhall within ſix weeks after *Michaelmas* deliver Indented Eſtreats thereof under their Hands and Seals, *viz.* one part thereof to the Bayliff or High-Conſtable of the Liberty, and the other to the Conſtable and Churchwardens of the Pariſh where the Default was made. 2 & 3 *P. & M. ch.* 8.

And in default of preſentment thereof in Leets, the Juſtices of Peace in the Seſſions ſhall enquire thereof, and ſet ſuch Fines as they or two of them *quor. unus*, ſhall think fit; whereof the

the Clerk of the Peace ſhall deliver Indented Eſtreats under his Hand and Seal, within ſix weeks of *Michaelmas*, in like ſort as aforeſaid. 2 & 3 *P. & M ch.* 8.

And theſe Eſtreats of the Stewards of Leets, or Clerk of the Peace, ſhall be a ſufficient Warrant for the Bailiff or chief Conſtable to levy the ſaid Fines by way of Diſtreſs; and if no Diſtreſs can be found, or the party do not pay the Fine within 20 days after lawful demand thereof, he or they ſhall forfeit double ſo much; all which Fines and Forfeitures ſhall be beſtowed by the Conſtable and Churchwardens on the High-ways in the ſame Pariſh. 2 & 3 *P. & M. ch.* 8. *Dalt. J. P. ch.* 26. *fol.* 71.

And the Bayliff or High-Conſtable is yearly, between the firſt of *March* and laſt of *April*, to render unto the Conſtable and Churchwardens to whom the other part of the Eſtreat was delivered, a true Account of the Moneys received by them, on pain of Forty ſhillings, and the ſaid Conſtables and Churchwardens have power to call the Bayliff or High-Conſtable before two Juſtices of the Peace (*Quor. un.*) to paſs the Account, who have power to commit ſuch Bayliff or High-Conſtable, until they have ſatisfied all the Arrearages by them received. 2 & 3 *P. & M. ch.* 8. *Dalt. J. P. ch.* 26. *fol.* 70.

And upon paſſing ſuch Account, every Bayliff or High-Conſtable ſhall have allowed Eight pence for their pains for every pound collected, and Twelve pence for the Fee for the Eſtreat delivered. 2 & 3 *P. & M. ch.* 8. *Dalt. J. P. ch.* 26. *fol.* 70.

Any two Juſtices of Peace, upon complaint to them made by the ſucceeding Conſtables and Church-

Church-wardens, may call before them the precedent Conſtables and Church-wardens, and may take their accounts, and compel them, as aforeſaid, to pay in all Arrearages in their hands. 2, 3 *P. & M. ch.* 8. *Dalt. J. P. ch.* 26. *fol.* 71.

All Fines and Forfeitures aſſeſſed in the Seſſions upon the *Stat.* 5 *El.* about High-ways, muſt be Eſtreated by the Clerk of the Peace, and muſt be levied, accounted, and imployed as is appointed by the 2 & 3 *P. & M. ch.* 8. 5 *El. ch.* 13.

The Surveyors upon Warrant from two Juſtices of Peace, are to levy by diſtreſs and ſale of Goods, the Forfeitures of all ſuch perſons as offend againſt the 18 *El.* 10. in not Scowring their Ditches, &c. and if they neglect by the ſpace of a year after the offence committed to levy the Forfeiture: Then the Juſtices may ſend to the Conſtable and Churchwardens to levy the ſame. 18 *El. ch.* 10.

By the *Stat.* 22 *Car.* 2. *ch.* 12. All Conſtables and Surveyors of the High-ways ſhall put in execution the Statutes for repairing or inlarging High-ways, and levy the penalties thereby impoſed. And every Conſtable or Surveyor of the High-ways neglecting ſo to do, or wilfully ſuffering any Wagons or Carts to paſs through his Limits, with any more Horſes or Cattel, or in any other manner than this Act alloweth, upon conviction thereof by one Oath before one Juſtice, or the Juſtices own view, ſhall pay ſuch fine (not exceeding 40 *s.*) as ſuch Juſtice ſhall Aſſeſs.

All Actions brought againſt any perſon for acting by this Law, ſhall be laid in the proper County,

County, and Defendants may plead the General Iſſue, and recover treble Coſts.

Enacted that after the 24*th* of *July*, 1670. No travelling Wagon, Cart, &c. in which any Burdens ſhall be carried, (except Carts uſed about Huſbandry, and carrying Hay, Straw, Corn unthraſhed, Coal, Chalk, Timber for Shipping or Building, Stones of all ſorts, Ammunition or Artillery for the King) ſhall be drawn or go in any road or publick High way, with above five Horſe-beaſts at length, and if any draw with more Horſes or Oxen, he ſhall draw all two abreaſt except one horſe.

Every Owner of any Wagon, Cart, &c. horſe or beaſts, ſhall forfeit for every offence 40 *s.* One third part to the Surveyers to amend the ways; one third part to the Overſeers for the Poor; The laſt third part to him who ſhall diſcover the Offender; to be levied as the penalties againſt Conſtables, &c. for their neglects before mentioned.

The Surveyor upon neglect to come and labour, ſhall complain thereof to the next Juſtices, who upon Oath of one witneſs, ſhall levy for every day labour neglected 18 *d.* and for every Man and Horſe 3 *s.* and for every Cart with two Men 10 *s.* for each day neglecting. 22 *Car.* 2. *ch.* 12.

CHAP.

CHAP. XVIII.

The Constables Office about Stoned Horses.

NOne ought to put to feed upon Foresis or Commons (except they be Commons where Mares are not usually kept) any Stoned Horse, being above two years old, and not fifteen hands high from the lower part of the hoof to the upper part of the wither (every hand containing four inches Standard measure) on pain to forfeit the same Horse. 32 *H.* 8. *ch.* 13.

If any Stoned Horse of lesser Stature be put to feed in any such Common (unless it be in Fen-grounds of the Isle of *Ely*, and of the Counties of *Cambridge*, *Huntington*, *Northampton*, *Lincoln*, *Norfolk*, or *Suffolk*, where they need be but thirteen hands high) any man may seize them to his own use, so that first by the assistance of the keeper of the ground, or Constable, Bayliff, Headborough, or other such Officer of the Parish adjoyning, such Horse be brought to the next Pound, and there by such Officer, in the presence of three other sufficient men, he be measured and found lower then the Statute. 32 *H.* 8. *ch.* 13. 8 *Eliz. ch.* 8. *Wingate Abr. Stat. Tit. Horses.*

Those that refuse to Measure, or to be present at Measuring do forfeit 40 *s.* a piece for every such default, to be divided between the King and Prosecutor; but note that an Horse that makes an Escape into such Common, shall not be questioned, so that he stay not above Four days after notice

notice thereof at the owners Houſe, or in his Pariſh Church. 32 *H.* 8. *ch.* 13.

Foreſts and Common grounds muſt be driven yearly at *Michaelmas*, or within fifteen days after, by the Keepers, Conſtables, or other Officers aboveſaid, on pain of Forty ſhillings; and they have power to drive them at any other time of the year at their pleaſure, and ſuch likewiſe have the owners of the ground. And if upon the driſt any unlucky Tits ſhall be found, they may be killed. 32 *H.* 8. *ch.* 13. *Wingate Abr. Stat. Tit. Horſes.*

Note that this Act of the 32 *H.* 8. *ch.* 13. is not to extend to the County of *Cornwall.* 21 *Jac. ch.* 28.

CHAP. XIX.

The Conſtables Office about Hue and Cry.

THe Conſtables and Officers of every Town, to which Hue and Cry ſhall come, ought to ſearch in all ſuſpected houſes and places within their Limits, and as well the Officers as all other perſons, which ſhall purſue the Hue and and Cry may attach and ſtay all ſuch perſons, as in their ſearch and purſuit they ſhall find to be ſuſpicious, and thereupon ſhall carry them before ſome Juſtice of Peace of the County where they are taken, to be examined, where they were at the time of the Felony committed; and if any Default be in the Officers, they may be fined by the Juſtices for their Neglect. *Dalt. J. P. ch.* 28. *fol.* 75.

In case of a Robbery where Damages are recovered against one or some few Inhabitants of the Hundred, and the rest refuse to contribute thereunto, in such case two Justices of the Peace (*Quor. un.*) dwelling within or near the Hundred, may for the levying thereof set a Tax upon every Parish within that Hundred; according to which the Constables and Headboroughs of every Town must Tax the particular Inhabitants within their Constableries, and then levy the money upon such as refuse by Distress and Sale of their Goods, restoring them the overplus, and after the money is gathered, they are to deliver the same to the Justices, or some of them that made the Rate within ten days. 27 *Eliz. chap.* 13. *Wingate's Abr. Stat. Tit. Robbery. Poult. Hue and Cry* 6. *Dalt. J. P. ch.* 47. *fol.* 132.

The Hundred where fresh suit shall cease, shall answer half the Damages to the Hundred where the Felony was committed, to be recovered in any Court at *Westminster*, in the Name of the Clerk of the Peace of the County where the Felony was committed, and here the death or change of the Clerk of the Peace, shall not abate the Suit; to be taxed and levied as aforesaid. 27 *Eliz. ch.* 13. *Wingate's Stat. Tit. Robbery.*

Note, that the Hundred is not chargeable for the Robbery; when any one of the Malefactors shall be apprehended, or when the Action is not prosecuted within one year after the Robbery committed; and note also that the Hue and Cry shall not be deemed Legal, unless the pursuit be both by Horse and Foot. *Wingate's Stat. Tit. Robbery. Bract. Lib.* 3. *fol.* 121. *vide Co.* 7. *Lib. fol.* 6, 7. 23 *Eliz. Dyer fol.* 370. *Dalt. J. P. fol.* 133.

He

He that goeth not at the command of the Sheriff or Conſtable at the Cry of the County, that is upon Hue and Cry to Arreſt Felons, after Attainder ſhall be grievouſly fined and impriſoned. *weſt. 1. ch. 9. Co. 2. Part. Inſt. fol. 172. 2 H. 7. 15. b. 5 H. 7. 5. a.*

CHAP. XX.

The Conſtables Office about Labourers and Servants.

THe Conſtable in the time of Hay and Corn Harveſt, upon the requeſt to him made by any man who wants Labourers; for the avoiding of the loſs of Corn, Grain, and Hay, may cauſe all ſuch Artificers, as he ſhall ſee meet to labour, to ſerve by the day for Mowing, Reaping, or otherwiſe, for the getting in of Corn or Hay abroad, according as they ſee them fit and able to perform; and if ſuch perſons ſhall refuſe to work, after they are requeſted thereunto by the Conſtable, the Conſtable may then ſet them in the Stocks by the ſpace of two days and one night; and if the Conſtable neglect to perform his Office, he Forfeits Forty ſhillings. 5 *Eliz. ch.* 14. *Wingate's Stat. Tit. Labourers.*

And it is alſo provided by the ſaid 5 *Eliz.* that no perſon retained in Husbandry, or in any Arts appointed by that Statute, ſhall depart after the time of ſuch Retainer expired, out of the City, Town, or Pariſh where he laſt ſerved, to ſerve in another without a Teſtimonial, to wit, (in a Town Corporate) under the Hands and Seals of the Magiſtrate and two Houſeholders

holders there, and in the Country under the Hands and Seals of the Conſtable or Conſtables, and two Houſe-holders of the Town or Pariſh where he laſt ſerved) which Teſtimonial muſt be Regiſtred by the Miniſter, for which he is to have Two pence, and then to be delivered to the Party. 5 *El. c.* 4. *Wingate's Stat. Tit. Labourers.*

But theſe Teſtimonials are now very ſeldom uſed, although the Statute be very penal in the ſame; for the Maſter that retains a Servant without ſuch a Teſtimonial forfeits five pounds, being thereof convicted upon Indictment taken in the Seſſions of the Peace, and every Servant which ſheweth not ſuch a Teſtimonial to the chief Officer in a Corporation, or to the Conſtable or ſuch other Officer, Miniſter or Churchwardens of the place where he is to dwell, may be impriſoned till he procure one, and if he produce not one within one and twenty days, next after the firſt day of his Impriſonment, or if he ſhall ſhew a falſe or counterfeit one, then he is to be whipped and uſed as a Vagabond. *Dalt. J. P. ch.* 31. *fol.* 86. 5 *Eliz. ch.* 4.

The

The Form of a Testimonial is after this manner:

Memorandum that A. B. *Servant to* C. D. *of* Kirk-Leaventon, *in the County of* York, *Husbandman, is Licenced to depart from his said Master, and is at his Liberty to serve elsewhere according to the Statute in that Case made and provided. In witness whereof we have hereunto set our Hands and Seals this Tenth day of* November, *in the* 19*th year of the Reign of our most gracious Soveraign Lord King* Charles *the Second*; Annoque Domini, 1667.

Jo. Mettcalf *Constable of* Kirk-Leaventon.
T. H. } Householders there.
G. B. }

If it be one that lives with a woman, then say, *Is Licenced to depart from his Mistress or Dame as she is*; and if his Master be not an Husbandman, but a Taylor, Smith, Joyner, or some other Trade, then name him accordingly in the Testimonial.

CHAP. XXI.

The Constables Office about Malt-making.

THe Constables and Bayliffs of any Town, where any deceitful Malt shall be made, or mingled to be sold contrary to the *Stat.* 2 *E.* 6. may from time to time view and

ſearch all ſuch Malt as ſhall be made, or put to ſale within any of their Towns, being evil made, or mingled with evil Malt, contrary to the Statute; then the ſaid Conſtable or Bayliff, ſo finding any ſuch deceitful Malt, with advice of any one Juſtice of Peace, may cauſe the ſame to be ſold to ſuch perſons, and at ſuch reaſonable prizes, as to the diſcretion of the ſame Juſtice ſhall ſeem expedient. 2 *E.* 6. *ch.* 10. 21 *Jac. ch.* 28. 3 *Car.* 1. *c.* 4. *Dalt. J. P. ch.* 33. *fol.* 86, 87.

Now theſe deceitful Malts are of three ſorts, to wit, ſuch as are not well made, and that is where Barly Malt hath not in the making thereof in the Fat, Floor, Steeping and drying thereof, three weeks at the leaſt, except it be in the Months of *June*, *July* and *Auguſt*, and in thoſe Months it muſt have ſeventeen days; for under ſuch times it cannot be well made nor wholſome. 2 *E.* 6. *ch.* 10. *Dalt. J. P. ch.* 33. *fol.* 87.

Secondly, No Malt ought to be put to ſale, unleſs before the ſale thereof, by treading, rubbing and fanning it, they take out of every Quarter half a peck of duſt, or more, on pain to forfeit 20 pence for every Quarter otherwiſe ſold, to be divided between the King and the Proſecutor. 2 *E.* 6. 10.

And thirdly, If any Malts be put to ſale, which are not well made, as aforeſaid, according to the limited time, or which are made of Mow burnt or Spired Barly, or mixed of good and bad together, they forfeit for every Quarter ſo put to ſale two ſhillings to be divided between the King and the Proſecutor, as aforeſaid. 2 *E.* 6. *ch.* 10. *& Wingate's Stat. Tit. Malt.*

Note,

Note, that none shall be punished by this Act, who only make the Malt for their own provision, nor for the penalties of 20 *d.* or 2 *s. per* quarter, unless the Action be prosecuted within one year. *Wingate's Stat. Tit. Malt.* 2 *E.* 6. *ch.* 10. *Dalt. J. P. ch.* 33. *fol.* 87.

CHAP. XXII.

The Constables Office about the Militia.

THe Constables by Warrant to that purpose, under the Hand and Seal of the Lord Lieutenant, or any three or more of the Deputy Lieutenants, are to Levy such Sums, Forfeitures, Penalties and Payments, as shall be charged upon any person, or persons, within their several Constablerie, for the furnishing of Arms, Horse, or Foot, or payment of Souldiers, &c. according to the Acts for the Militia. 14 *Car.* 2. *ch.* 3. 15 *Car.* 2. *ch.* 4.

And where sufficient Distress cannot be had, then the Lord Lieutenants, or their Deputies, by like Warrant to the Constable, may commit such Offender to Prison until he shall make satisfaction according to the said Forfeiture, Payment, or Penalty. 15 *Car.* 2. *ch.* 4.

CHAP. XXIII.

The Constables Office about Moss-Troopers.

THe Constables and other Officers within the Counties of *Northumberland* and *Cumberland*, upon Warrant from the Justices of the Peace, are to Levy by Distress and Sale of the Parties Goods (rendring the overplus to the Owners) all such sums as shall be charged upon any person within their several Constableries, by the Justices at their Sessions, for the safeguard of the Counties against the Injury, Theft, and Rapine of Moss-Troopers, and the Justices also may examine any Complaint against the Constables or other Officers that shall neglect, or refuse, or fail to give Obedience to the Act, or do any thing in disturbance thereof, and bind over such person to the Quarter-Sessions to be proceeded against according to Justice. 14 *Car.* 2. *ch.* 22.

This Act is by the *Stat.* 29 & 30 *Car.* 2. *ch.* 2. revived, and to continue for seven years, and from thence to the end of the first Session of the next Parliament.

CHAP. XXIV.

The Constables Office about the Disturbing of Ministers.

IF any shall purposely, without Authority, disturb a Preacher lawfully licenced in his Preaching

Preaching of the Word, Praying, or Administring of the Sacraments, either by their talking, laughing, humming, or the like, any one of the Constables or Churchwardens of the place, may of his own Authority presently apprehend the party, and carry him before a Justice of Peace of the same County, who upon due accusation, may, if he think fit, commit him to safe custody, and within six days after, taking with him another Justice of the Peace, they may examine the matter, and if by proof of two witnesses they find it true, they must commit him to the Common Gaol, there to remain for Three months, and from thence to the next Quarter-Sessions, at which upon the parties Reconciliation, and entring into Bond, for the good behaviour for one whole year (at the discretion of the Justices he may be released) but if he persist still in his obstinacy, he must remain in Prison still without Bail, untill he shall reconcile, and be penitent for his offence. 1 *Mar. Sess.* 2, *ch.* 3. *Wingate's Stat. Tit. Sacraments. Dalt. J. P. ch.* 41. *fol.* 103.

He that rescues an offender in this kind, shall suffer like imprisonment, and forfeit Five pounds besides, and the Inhabitants that suffer such an offender to escape, being presented before the Justices of Peace in the Sessions within the County, or Corporation where the escape was made, do also forfeit Five pounds. *Wingate's Stat. Tit. Sacraments.* 1 *M. Sess.* 2. *c.* 3.

This Act does not restrain the Jurisdiction of the Ecclesiastical Law, howbeit none are to be punished twice for one offence; *Quære* of this Statute, for some think it is Repealed by the 1 *El.* & 2. *vide Lamb.* 199. *Cromp.* 14. *Dalt. J. P. c.* 41. *fol.* 103, 104.

CHAP. XXV.

The Constables Office about the Peace.

THe Constable may do what he can to keep the Peace, but he cannot take Surety of the Peace at the request of any man. *Cromp.* 6. 12 *H.* 7. *fol.* 18. *a.*

Note, That the breach of the Peace is said to be any injurious force or violence used against the person of another, his Goods, Lands, or other Possessions, whether it be threatning words or furious gestures, or force of the body, or any other force used *in terrorem. Dalt. J. P. ch.* 3. *f.* 9.

The Constable, or other Officer, before he Arrest the party upon a Warrant for the Peace, ought first to acquaint him with the matters, and withall, to require or charge the party in the Kings Name, to go along with him before the Justice, to find and put in Sureties according to the Warrant; and if the party refuse either to go before the Justice, or to find Sureties; then the Officer by vertue of the said Warrant may and ought forthwith Arrest him, and convey him to the Gaol without carrying him to any Justice, and there the party is to remain until he shall voluntarily offer and find Sureties; and then such Officer must be at the next Sessions of the Peace, there to deliver his said Warrant in, and to certifie all that he hath done thereupon. *Dalt. J. P. ch.* 69. *fol.* 166. 5 *E.* 4. 13. *Lamb.* 92. *Bro. faux Imp.* 18. *Cromp.* 235.

But if the party yield to go and find Sureties, then the Officer may not absolutely Arrest him, but yet the Officer is not bound to go up and down

down with the party to find Sureties, but may keep him till he can procure Sureties to come to him; and if afterwards the party ſhall make any reſiſtance, or ſhall offer to go his way, then the Officer may Arreſt him, and carry him to the Gaol, or elſe impriſon him in the Stocks until he can provide aid to carry him to the Gaol. *Dalt. J. P. ch. 69. fol.* 166.

If a Conſtable or other Officer, having a Warrant from a Juſtice of Peace to Arreſt a man, to find Sureties for the Peace, do afterwards receive a *Superſedeas* out of the Chancery, &c. or from another Juſtice of the Peace of the ſame County, to diſcharge the ſame Surety of the Peace, and yet nevertheleſs the Officer will urge the party to find Sureties by vertue of the Warrant, the party may refuſe to give it, and if he be Arreſted or Impriſoned for ſuch Refuſal, he may have his Action of falſe Impriſonment againſt ſuch Officer; for ſuch *Superſedeas* is a Diſcharge of the former Precept or Warrant. *Lamb.* 101. *Dalt. J. P. c.* 69. *fol.* 168.

If any ſhall abuſe a Conſtable in doing of his Office, the Conſtable may have the party bound to his good behaviour for it. *Fitz. Barr.* 202. *Cromp.* 135.

If a Conſtable be informed that a man and a woman be in Adultery or Fornication together, or that a man and a woman of evil Report are gone to a ſuſpected houſe together in the Night, the Conſtable may take company with him, and if he find them ſo, he may carry them before a Juſtice of Peace, to find Sureties for the good behaviour. 13 *H.* 7. 10. *Bro. Traverſ.* 432. *Dalt. J. P. ch.* 75. *fol.* 189.

CHAP. XXVI.

The Conſtables Office about Phyſicians.

THe Conſtables and other Officers in *London*, and within ſeven miles round, are to be aiding and aſſiſting to the Preſident of the Colledge of Phyſicians, and all perſons authorized by the ſaid Colledge for the due execution of the Laws and Statutes belonging to the ſaid Colledge, upon pain of running into contempt to the King. 1 *Mar. Par.* 1. *Seſſ.* 2. *c.* 9. *Wingate's Stat. Tit. Phyſicians.*

CHAP. XXVII.

The Conſtables Office about the Plague.

IF any perſon Infected, or being or dwelling in an houſe infected with the Plague, ſhall be by the Conſtable commanded to keep his houſe, and notwithſtanding ſhall wilfully go abroad and converſe in company, having any Infectious Sore on him, it is Felony, and if ſuch perſon ſhall not have ſuch Sore about him, yet for his offence he ſhall be puniſhed as a Vagabond, by the appointment of any one Juſtice of the Peace, and further ſhall be bound to his good behaviour for one whole year. *Wingate's Stat. Tit. Plague.* 1 *Jac. c.* 31. *Dalt. J. P. c.* 39. *fol.* 91.

The

The Justices of Peace, or any one of them, and other Head-Officers in Corporate Towns, within their several limits, may appoint Searchers, Watch-men, Examiners, Keepers, and Buriers for the persons and places infected; and if any person infected, or dwelling and being in an house infected, shall contrary to the commandment or appointment of the Justice of Peace, or Constable, &c. wilfully attempt to go abroad, or to resist such their Keepers or Watchmen, then may such Watchmen with violence force them to keep their houses, and if any hurt happen thereupon, the Watchmen shall not be impeached therefore. 1 *Jac. ch.* 31. *Dalt. J. P. ch.* 39. *fol.* 91. *Cromp.* 122. *b. Wingate's Stat. Tit. Plague.*

If the Constable or other Officer wilfully neglect to levy the money (by Warrant from two Justices of Peace, upon the Statute for Relief of any Town infected with the Plague) by Distress and sale of the Goods of such persons as refuse or neglect to pay; then they forfeit for every such Offence ten shillings to be imployed to the said Charitable use. *Wingate's Stat. Tit. Plague.* 1 *Jac. c.* 31. *Dalt. J. P. c.* 39. *fol.* 91.

CHAP. XXVIII.

The Constables Office about conveying Prisoners to the Gaol.

AN Offender which is to be conveyed to the Gaol, if he be able, must bear all charges, both of himself and of those that guard

him; and if he refuſe to defray and bear the charges, or ſhall not at the time of commitment pay or bear the ſame, then upon a Warrant from a Juſtice of Peace, the Conſtable of the Townſhip, where the Offender hath any Goods (being within the ſame County) may ſell ſo many of the parties Goods as in the diſcretion of the Juſtice ſhall be thought ſufficient to ſatisfie the ſaid charges, the Apprizement to be made by four Inhabitants of the Pariſh where ſuch Goods be, and the overplus to be rendred to the owner. 3 *Jac. c.* 10. *Dalt. c.* 43. *fol.* 104. *Wingate's Stat. Tit. Priſon.*

And if the Offender have no Goods to ſatisfie the charges, then the charge muſt be born by the Town where the Offender was taken, which muſt be laid on by way of Tax by the Conſtable, Churchwardens, and two or three other honeſt Inhabitants, and where there are no ſuch Officers, then four of the principal Inhabitants of the Pariſh muſt lay on the Tax, which being allowed under the Hand of a Juſtice of Peace, every Inhabitant muſt pay their proportion according to the Tax; and if any refuſe to pay, the Conſtable, Tythingman, or other Officer, by Warrant from a Juſtice of Peace, may levy the ſame by Diſtreſs (and after appriſement by four Inhabitants there) may ſell the ſame, rendring the overplus to the party ſo refuſing. 3 *Jac. c.* 10. *Wingate's Stat. Tit. Priſon.*

Here if the Conſtable, or other Officer, that diſtrains, be ſued, he ſhall plead Juſtification, and upon verdict for, or *Non* ſuit of the Plaintiff, he ſhall recover treble Damages, beſides Coſts of Suit. 3 *Jac. c.* 10.

CHAP.

CHAP. XXIX.

The Conſtables Office about Purveyance.

THe Conſtables duty about Purveyance, upon the *Stat.* 36 E 3. *ch.* 2. 5 *E.* 3. *ch.* 2. 20 *H.* 6. *ch.* 8. 23 *H.* 6. *ch.* 14. *&* 2 *&* 3 *P. & M. ch.* 6 is now of little or no uſe; for it is enacted by the 12 *Car.* 2. That from henceforth no Moneys, or other thing ſhall be taken, rated or levied for any Proviſion, Carriages, or Purveyance for the King, his Heirs, &c. or for the King, Queen, or any of their Children, for the time being, or any of his Houſhold, of any Timber, Fewel, Cattel, Corn, Grain, Malt, Hay, Straw, Victuals, Cart, or Carriage, Oxen, Horſes, Ploughs, Wains, or other Carriages, or any other thing from any Subject, without the full and free conſent of the owner firſt obtained without menace or inforcement. 12 *Car.* 2. *ch.* 24. But this clauſe being found to be too prejudicial to the King, if the Subjects might not be forced at reaſonable prices to furniſh the King with Carriages. The Statutes of 13 *Car.* 2. *ch.* 8. and 14 *Car.* 2. *ch.* 20. provided for neceſſary Carriages for his Majeſty in his Royal Progreſs and Removals, and for Carriages by Land and Water for the uſe his Majeſties Navy and Ordnance; But theſe two laſt mentioned Acts being to continue no longer, then till the end of the firſt Seſſion of the next Parliament, are now both Expired, and the ſaid clauſe of 12 *Car.* 2. is again become in force to all intents and purpoſes.

No Pre-emption ſhall be allowed to the King, his Heirs or Succeſſors, nor to the Queen, or any of the Children of the Royal Family, in Market, or out of Market; but it is now lawful for all Subjects to diſpoſe of their goods as they pleaſe, and if any perſon ſhall make any Purveyance, or Impreſs any Carriages or other things by colour of any Authority of Purveyance for the King, &c. contrary to the 12 *Car.* 2. *ch.* 24. then two or one Juſtice of Peace next adjoyning, and the Conſtable of the place where ſuch offence ſhall happen, at the requeſt of the party grieved, ſhall commit the party offending to the Gaol, until the next Seſſions, there to be Indicted and proceeded againſt for the ſame, and the party grieved ſhall have his Action againſt the Offender, and therein ſhall recover treble damages and treble coſts. 12 *Car.* 2. *c.* 24.

CHAP. XXX.

The Conſtables Office about Quarter Monies for Maimed Souldiers, Priſoners, &c.

THe Conſtables and Churchwardens are to levy, by Diſtreſs and Sale of the Offenders Goods, ſuch money as is rated upon any perſon within their Conſtablery, for the Relief of poor maimed Souldiers and Mariners, rendring the overplus to the Owner. 43 *Eliz.* 3. *Wingate's Stat. Tit. Captains and Souldiers.*

And this Money, ſo collected, is to be paid quarterly to the High-Conſtable of the Hundred

Ten.

Ten days before every Quarter-Seſſions, or elſe the Conſtable and Churchwardens, their Executors, &c. forfeit twenty ſhillings: And the High-Conſtable is to pay in the Collection money (to the Treaſurers appointed by the Juſtices) every Quarter-Seſſions, or otherwiſe he, his Executors, &c. forfeits 40 *s.* which forfeitures are to be levied and employed by the Treaſurer for the encreaſe of their Stock for the uſes aforeſaid. 43 *El. c.* 3. *& Wingate's Stat. Tit Captains and Souldiers.*

The High-Conſtables are to make Quarterly payment, at every Seſſions unto the Collectors appointed by the Juſtices, of all ſuch Sums of money as are raiſed in every Pariſh, and paid to them by the Churchwardens or Conſtables, for the Relief of the poor Priſoners in the Gaol, under pain of Five pounds. 14 *El. c.* 5. *Wingate's Stat. Tit. Priſon and Priſoners.*

The Conſtables and Churchwardens are to levy, by Diſtreſs and Sale of the Offenders Goods, ſo much money as is rated upon any perſon within their Pariſh, for the Relief of the Priſoners in the Kings Bench and Marſhalſey, and alſo of Hoſpitals and Almſhouſes, and relief of the poor within their County, rendring the overplus to the Owner; and for want of ſuch Diſtreſs, the Juſtice of Peace may commit the party to Priſon, there to abide till it be paid, without Bail or Mainprize, which money the Churchwardens are to pay to the High-Conſtable ten days before the end of every Quarter-Seſſions; and if the Churchwardens, their Executors, &c. fail to pay this Money, they forfeit Ten ſhillings, and if the High Conſtable, his Executors, &c. fail to pay the Treaſurers of the County the ſame money

money at the Quarter-Seſſions, they forfeit twenty ſhillings; which Forfeitures the Treaſurers may levy by Diſtreſs and Sale as aforeſaid, and the Moneys to be imployed to the uſes aforeſaid. 43 *Eliz. ch.* 2. *Wingate's Stat. Tit. Poor People. Dalt. J.P. ch.* 53. *fol.* 135.

CHAP. XXXI.

The Conſtables Office about Popiſh Recuſants.

POpiſh Recuſants above Sixteen years of Age, ſhall within Forty days after their conviction repair to their uſual dwelling, and not remove above Five miles from thence, on pain to forfeit all their Goods and Lands, and Annuities during Life; and if they have no certain abode, then are they to repair to the place where they were born, or where their Father and Mother dwells, and within twenty days after their arrival, there to give their Names in writing to the Miniſter, Conſtables and Headboroughs, which Miniſter is to enter them in a Book to be kept for that purpoſe, and he, together with the ſaid Conſtables and Headboroughs, are to certifie the ſame to the next Quarter-Seſſions, where the Juſtice of Peace muſt cauſe the ſame to be inrolled. 35 *Eliz. c.* 2. *Wingate's Stat. Tit. Crown.*

The Conſtables and Churchwardens of every Pariſh, or the one of them, or if there be none ſuch, then the High Conſtables of the Hundred there, are once every year to preſent at the General Seſſions of the Peace, the monthly abſence from Church of every Popiſh Recuſant, and the

the Names of their Children being above the age of nine years, abiding with their ſaid Parents, and of their Servants together with the age of their Children as near as they can know them, on pain to forfeit reſpectively for every ſuch default twenty ſhillings; which Preſentment the Clerk of the Peace, or Town Clerk ſhall Record without Fee, on pain of Forty ſhillings. *Wingate's Stat. Tit. Crown.* 3 *Jac. ch.* 4.

If the Miniſter, petty Conſtable, and Churchwardens of any Pariſh, or any two of them, ſhall complain to any Juſtice of Peace, of any perſon juſtly ſuſpected for Recuſancy, then any ſuch Juſtice may tender the Oath of Allegiance to the perſon ſo ſuſpected; and if he refuſe to take it, and be of the age of eighteen years or above, then the Juſtice may commit the party to the Gaol, there to remain until the next Aſſiſes or Seſſions of the Peace; and if then the party refuſe again, he incurs a *Præmunire*, but if it be a Woman Covert, ſhe ſhall only be impriſoned, there to remain without Bail till ſhe take the ſaid Oath. *Wingate's Stat. Tit. Crown. Dalt. J.P. ch.* 45. *fol.* 108. 7 *Jac. c.* 6.

CHAP. XXXII.

The Conſtables Office about Riots and Routs.

SHeriffs, Conſtables, and all other the Kings Officers, ſhall ſuppreſs Rioters, and impriſon them, and all other Offenders againſt the Peace, *Wingate's Stat. Tit. Riots, &c.* 17 *R.* 2. *ch.* 8.

Knights

Knights and all other Temporal persons under that degree, that be above the Age of Fifteen years, and be able to Travel, upon warning given are to be assistant to the Justices, when they shall be reasonably requested to suppress Riots on pain of Imprisoment, and to make Ransom to the King. 2 *H.* 5. 8. *Wingate's Stat. Tit. Riots, &c. Dalt. J. P. ch.* 46. *fol.* 114.

Note, where three persons or more shall come or assemble themselves together, to the intent to do any unlawful Act, with force or violence, against the person of another his possessions or Goods, as to kill, beat, or otherwise to hurt, or to imprison a man; to pull down an House, Wall, Pale, Hedge, or Ditch; wrongfully to enter upon, or into another mans Possession, House, or Lands, &c. or to cut or take away Corn, Grass, Wood, or other Goods wrongfully, or to hunt unlawfully in any Park or Warren, or to do any other unlawful act (with force or violence) against the Peace; or to the manifest terrour of the people, if they only meet to such a purpose or intent, although they shall after depart of their own accord, without acting any thing, yet this is an unlawful Assembly, because of their intention at the first. *Bro. Tit. Riot.* 4, 5. *Cromp.* 68. *Co.* 3 *part. Inst. fol.* 176. *Dalt. J. P. ch.* 85. *fol.* 217. *Terms de Ley, verb. Rout. Lamb.* 179. 181.

If after such meeting, as aforesaid, they shall ride, go, or move forward towards the execution of such Act, whether they put their intended purpose in execution or not, this is a Rout. *Bro. Riot.* 4 *Co.* 3. *part. Inst. fol.* 176. *Terms de Ley, verb. Rout. Dalt. J. P. ch.* 8. *fol.* 217.

And if they do any such thing indeed, then it is a Riot. *Co.* 3. *part. Inst. fol.* 176. *Terms de Ley,*

Ley, verb. Riot. Dalt. J. P. ch. 85. fol. 217. Bro. Riot. 4 & 5.

CHAP. XXXIII.

The Conſtables Office about Rogues and Vagabonds.

THe Conſtable, Headborough, or Tythingman, aſſiſted by the Miniſter and one other of the Pariſh, is to ſee (or do it himſelf) Rogues and Vagabonds, which ſhall be taken begging, ſtripped naked from the middle upwards, and openly whipped till their body be bloody, and then forthwith to be ſent away from Conſtable to Conſtable the next ſtraight way to the place of their birth, and if that cannot be known, then to the place where they laſt dwelt by the ſpace of one whole year, before ſuch puniſhment; and if that cannot be known, then to the Town through which they laſt paſſed unpuniſhed: And when they come there, if it cannot be diſcovered where they were born, or laſt dwelt as aforeſaid, then are they by that Conſtable to be conveyed to the Houſe of Correction, or Common Gaol of the County, to be imployed in work, or placed in ſome ſervice, and ſo to continue by the ſpace of one year; or in caſe they be not able in body, that Town is to keep them till they may be placed in ſome Almſhouſe within the ſame County. 39 *El. ch.* 4. *Wing. Stat. Tit. Vagabonds. Reſolut. Judges Sect.* 714 *Bolſt.* 2. *Part. Rep. fol.* 258.

After ſuch whipping, the Vagabond is to have a Teſtimonial under the Hand and Seal of the Conſtable,

Conſtable, Tythingman, &c. and the Miniſter, teſtifying the day and place of his puniſhment, the place to which he is to be conveyed, and the time limited for his paſſage thither; which time, if by his own Default he exceeds, he ſhall from time to time incur the like puniſhment, till he arrive at the place limited; the ſubſtance of the Teſtimonial is to be Regiſtred by the Miniſter in a Book, which he is to keep for that purpoſe on pain of Five ſhillings. See the Form of the Teſtimonial, *pag.* 104. *Wingat's Stat. Tit. Vagabonds. Dalt. J. P. fol.* 129. *Poulton Vagab.* 3.

If any Conſtable, Headborough or Tythingman, be found negligent in the due execution of the Act of the 39 *Eliz.* aforeſaid, he forfeits Ten ſhillings for every Default, and all ſuch perſons as ſhall in any wiſe diſturb or hinder the execution of the Law, or any part thereof, concerning the puniſhment of Rogues, forfeit Five pounds, and to be bound to the good behaviour: and obſerve therefore that by the Reſolution of the Judges, *Sect.* 13, 14. where a Rogue is to be conveyed from Conſtable to Conſtable the next ſtraight way to the place of his birth, in ſuch caſe, if the Conſtable of any Pariſh will not receive ſuch Rogue, to convey him to the next Conſtable, &c. this is a Forfeiture of Five pounds in ſuch Officer that ſhall not receive the party, to convey him or her, and he may be bound, as aforeſaid, to the good behaviour, and if he receive him, and do not convey him to the next Conſtable, it ſeems he incurs the like penalty, 39 *Eliz. ch.* 4. *Poul. Vag.* 5 *&* 11. *Dalt. J. P. ch.* 47. *fol.* 128. *&* *Reſol. Judges. Sect.* 13, 14.

Every perſon ſhall apprehend or cauſe to be apprehended, ſuch Rogues as he ſhall ſee or know

know to resort to his house to beg, or receive any Alms; and him or them shall carry, or cause to be carried to the next Constable, or else shall forfeit for every such default Ten shillings; and the Constable is to whip and convey such Rogues as afore directed, on pain of twenty shillings. 1 *Jac. ch.* 7. *Pond. Vag.* 30 *Dalt. J. P. ch.* 47. *fol.* 128. *Wingate's Stat. Tit. Vagabond.*

Two Justices of the Peace (*quor. un.*) by Warrant under their Hands and Seals, may cause to be levied by Distress and Sale of the Offenders goods all the Fines and Forfeitures aforesaid, appointed by the *Stat.* 39 *Eliz. ch.* 4. & 1 *Jac. ch.* 7. after Conviction of the party, which must be after confession or proof of two sufficient Witnesses before the said Justices. *Pond. Vag.* 1. 39 *Eliz. ch.* 4. 1 *Jac. ch.* 7. *Dalt. J. P. ch.* 47. *fol.* 149. *Wingate's Stat. Tit. Vagabond.*

If the Constables or Wythingmen neglect to make privy search for Rogues upon Warrant from the Justices of Peace, and to appear before the Justices at their meeting appointed for that purpose, to give an Account upon Oath in Writing under the Ministers hand, testifying what Rogues, &c. they have taken in that search, or since the last meeting, and how many have been punished, or otherwise sent to the House of Correction, or if they neglect safely to convey such to the House of Correction, as by the said Justices Warrant are to be committed thither, they are to incur what fine the Justices please to set upon them, so that it exceed not Forty shillings. 7 *Jac. ch.* 4. *Wingate's Stat. Tit. Vagabond.*

Note, That all these persons following being above the Age of seven years, Man or Woman, Sole or Covert, that wander from their usual

place

place of abode, abroad every where begging; or if they do not beg, yet if they wander and lyter abroad without a lawful Pass-port, and give no good reason for their Travel, are accounted Rogues: All Scholars and Sea-faring men which beg, wandring persons, that use unlawful Games, subtile Craft, or Plays, or pretending themselves to have skill in Physiognomy, Palmestry, or the like, or to be Fortune-tellers; all Proctors, Patent-gatherers (except for Fire) Collectors for Gaols, Prisoners, or Hospitals, wandring abroad, Fencers, Bearwards, Common Players of Enterludes, and Fidlers or Minstrels wandring abroad, all Jugglers, Tinkers, Pedlers, and petty Chapmen, and Glass-men wandring abroad, especially if they be not well known, or have not a sufficient Testimonial; all counterfeit *Egyptians* not being Felons; all persons delivered out of Gaols, which beg for their Fees, or otherwise do travel begging, such as go to or from the Baths and do not pursue their Licence; Souldiers and Mariners that beg, and counterfeit a Certificate of their Commanders; All Labourers which wander abroad out of the Parish, and refuse to work for wages reasonably taxed, having no living otherwise to maintain themselves, and such as go with a general Pass-port which is not directed from Parish to Parish; all these are accounted Rogues, Vagabonds, and Sturdy Beggars: And all Servants departing out of their Service (to wit, forth of one City, Town or Parish to another, or out of one Hundred or County to serve in another) without a Testimonial, or which shall be taken with a false one, and those that are sick of the Plague, and wilfully go abroad in company against the com-

command of Officers, are to be punished as Vagabonds: but observe that none but the wandring Rogue is to be sent to the place of his birth, or last habitation; for those poor people which beg in their own Parish, without the appointment of the Overseers, or in the Highways, are to be sent to the House of Correction. 39 *Eliz. ch.* 4. & 17. 43 *Eliz. ch.* 2. 1 *Jac. ch.* 7. 21 *Jac. ch.* 28. 7 *Jac. ch.* 4. 5 *Eliz. ch.* 4. *Poult. Rep.* 2 & 7. *Kesol. Judges.* 13, 15. *Dalt. J. P. ch.* 47. *fol.* 123, 124, 125. & *Cro.* 2. *part. Rep. fol.* 377.

Note, That the Wife, and Children under seven years of age, being vagrant, must go and be placed with the Husband; and if the Husband be dead, then with the Wife where she was born, or last dwelt; and vagrant Children above seven years of Age, must be sent to the place of their birth; and if the vagrant Parents with their Children under seven years of Age be placed at the place of the birth of the Parents, or at the last place of dwelling, as the case falls out; if afterwards the Parents, or either of them die, or run away, yet the Children once setled, must remain there still, and may not be sent to the place of their birth, though afterwards they attain to the age of seven years; and the Wife being but a vagrant Rogue, ought to be sent to the Husband, though he be but a Servant in another Town, and the Rogue whose place of birth or dwelling cannot be known, having a Wife, or Children under seven years of age, they must go with the Husband to the place where they were last suffered wilfully to pass through unpunished; where the Children must be relieved with the work of their Parents, though

their

their Parents be committed to the House of Correction. 39 *El. ch.* 4. *Poult. Vag.* 2. *Resolut. of the Judges, Sect.* 4. 5. *Dalt. of J. P. ch.* 47. *fol.* 125.

Now the Form of a Testimonial, for the conveying a Rogue that hath been banished, is as followeth:

JOhn Roo *a Sturdy Vagrant Beggar (of tall stature, gray haired, and blind of the left Eye) aged about fifty years, was this second day of* February, *in the twentieth year of the Reign of our most gracious Soveraign Lord King* Charles *the Second of* England, &c. *openly whipped at* Kirk-Leaventon *in the County of* York, *according to Law, for a wandring Rogue; and is assigned to pass forthwith from Parish to Parish, by the Officers thereof, the next straight way to* A. *in the County of* Westmerland, *where as he confesseth he was born; and he is limited to be at* A. *aforesaid within Ten days now next ensuing at his peril. Given under the Hands and Seals of* J. H. *Minister of* Kirk-Leaventon *aforesaid, and* J. M. *Constable there.* Wingate's Stat. Tit.

CHAP. XXXIV.

The Constables Office about Profane Swearing.

IF any person or persons shall profanely Curse and Swear, for every time so offending they forfeit Twelve pence; the offence to be proved within Twenty days after it is committed, by the Oath of Two Witnesses, or by confession of

of the party before any Juſtice of Peace, or Head Officer of any City or Town Corporate; who thereupon may iſſue out their Warrant to the Conſtables, and Churchwardens, and Overſeers of the Poor of that Pariſh where the ſaid offence ſhall be committed, and the ſaid Conſtables, &c. are to levy the ſum and ſums of money by diſtreſs and ſale of the Offenders Goods, rendring the overplus, if any be, to the owner. 21 *Jac. ch.* 20. 3 *Car.* 1. *c.* 4. *Wingate's Stat. Tit. Swearing. Dalt. J. P. c.* 55. *f.* 138.

Note, Where no Diſtreſs is to be had, the Offender, if above Twelve years of Age, ſhall by Warrant as aforeſaid, to be ſet in the Stocks Three whole hours; but if the Offender be under the Age of Twelve years, and ſhall not forthwith pay the ſaid ſum of Twelve pence *per* Oath, then he or ſhe is to be whipped by the Conſtable, or by the Parent, or Maſter, in the Conſtables preſence. 21 *Jac. ch.* 20. 3 *Car.* 1. *ch.* 4. *Dalt. J. P. ch.* 55. *fol.* 138.

CHAP. XXXV.

The Conſtables Office about Profaning the Sabbath.

THe Conſtable by Warrant from a Juſtice of Peace, (or the chief Officer of any City, Borough, or Town Corporate) under their Hand and Seal, againſt ſuch as uſe unlawful Games on the Sabbath-day, as Bull-baiting, Bear-baiting, Enterludes, or other unlawful Exerciſes within their own Pariſh, or out of their own Pariſh at any ſuch Sports whatſoever, may levy the

penalty

penalty of Three ſhillings and Four pence by Diſtreſs and Sale of the Offenders Goods, rendring the overplus to the Owners; and in default of Diſtreſs, the Conſtable is to ſet the Offenders in the Stocks by the ſpace of three hours: Note, that the party offending in theſe Games, muſt be queſtioned within a month after the offence committed. 1 *Car.* 1. *ch.* 1. *Dalt. J. P. ch.* 23. *fol.* 63.

If any one on the Sabbath-day keep, or be preſent at any Wreſtling, Shootings, Bowlings, Ringing of Bells for pleaſure, Mask, Wake, Church-Ale, Dancing, Games, Sport, or paſtime whatſoever, they forfeit Five ſhillings, if he or ſhe be above Fourteen years of age, and if under that age, then Twelve pence by him that hath the government of the party, to be levied by Sale and Diſtreſs by the Conſtable, by Warrant from a Juſtice of Peace, or chief Officer, as aforeſaid; and for want of Diſtreſs to be ſet Three hours in the Stocks; and every Carrier going with his Horſes on this day, or Wagoner, Carter or Waynman going with any Wagon, Cart or Wain, or Drover with his Cattel, forfeit Twenty ſhillings for every offence, to be levied alſo by Diſtreſs and Sale of his Goods, if he be queſtioned within Six weeks after the offence done; but there muſt be but one Twenty ſhillings forfeit for one Journey, although they paſs through ſeveral Pariſhes, and this Twenty ſhillings that Pariſh ſhall have where the Diſtreſs is firſt taken. 3 *Car.* 1. *ch.* 1. *Dalt. ch.* 50. *fol.* 134.

And if any Butcher by himſelf, or any for him, ſhall kill or ſell any Victuals upon the Lords day, he forfeits Six ſhillings and Eight pence, to be

be levied by the Conſtable by Diſtreſs and Sale, as aforeſaid, upon Warrant from a Juſtice of Peace, &c. the offence to be queſtioned within Six weeks after it is committed, and the parties to be convicted before any Juſtice of Peace, Mayor, or head-Officer, &c. upon their own view, proof of Two Witneſſes or more, or the parties own confeſſion; and the Juſtice, Mayor, &c. may reward the Informer with a Third part of the penalty. 3 *Car.* 1. *ch.* 1. *Dalton's J. P. ch.* 50. *fol.* 134.

All Laws in force concerning the Obſervation of the Lords-day ſhall be put in execution: none ſhall do any work by labour or buſineſs that day, (Works of Charity and neceſſity only excepted): And the Offender, if of the age of fourteen years or upwards, ſhall forfeit Five ſhillings: none ſhall cry or expoſe to ſale any Wares that Day, on pain to forfeit them: no Drover, Horſe-Courſer, Waggoner, Butcher, Higler, or their Servants, ſhall travel on the Lords-day, on pain to forfeit twenty ſhillings: no Perſon ſhall travel on that day with any Boat, Wherry, &c. except on extraordinary occaſion to be allowed by a Juſtice of Peace, or Head-Officer of the Place, &c. on pain to forfeit Five ſhillings. 29 *Car.* 2. *ch.* 7.

The Juſtice of Peace, or chief Officer of the City, Burrough, &c. before whom the Offender is convicted, by view, confeſſion, or Oath of one Witneſs, ſhall give Warrant to the Conſtables or Churchwardens to ſeize the Goods cried, or put to ſale, and to ſell them, and to levy the other Penalties by diſtreſs and ſale of Goods, and in caſe of inability, &c. to ſet the Offenders in the Stocks for two hours: The Penalties

to be to the Poor of the Parish where the offence is committed, saving that the Justice or Head-Officer may reward Informers, the reward not exceeding a third part of the Penalties. But Prosecution must be made upon this Act within ten daies after the offence committed. 29 *Car.* 2. *ch.* 7.

Dressing of meat in Families, Inns, Cooks-shops, &c. and crying of Milk before Nine in the Morning, or after four in the Afternoon, are not Prohibited by this Act. 29 *Car.* 2. *ch.* 7.

No Writ, Process, Warrant, &c. shall be served on the *Lords-day*, except for Treason, Felony, or Breach of the Peace; but the Service shall be void, and the Party serving it shall answer damages, as if done without Warrant. 29 *Car.* 2. *ch.* 7.

CHAP. XXXVI.

The Constables Office about Tobacco Planting.

ALL Sheriffs, Justices of Peace, Mayors, Bayliffs, Constables, and every of them, upon Information or Complaint made to them, or any of them, by any of the Officers of the Customs, or by any other person or persons whatsoever, that there is any Tobacco set, sown, planted, or growing within their Jurisdictions or Precincts (except such as is growing in any Physick-Garden of either University, or in any other private Garden, where the quantity of ground planted exceeds not one half of one Pole,

Pole, in any one place or Garden) they are within ten days after ſuch Information or Complaint, to cauſe to be burnt, plucked up, conſumed, or utterly deſtroyed, all ſuch Tobacco ſo ſet, ſown, planted, or growing. 12 *Car.* 2. *c.* 34.

And if any perſon or perſons ſhall reſiſt, or make forceable oppoſition againſt any perſon or perſons in the due execution of this Office as aboveſaid, every perſon or perſons for every ſuch offence, ſhall forfeit the ſum of Five pounds, to be recovered in any Court of Record; and be alſo committed to the common Gaol of the County where the offence was committed, there to remain without Bail or Mainprize, until he, ſhe, or they, do enter into Recognizance to his Majeſty, his Heirs and Suceſſors, with two ſufficient Sureties in Ten pounds penalty, not to do or commit the like offence again. 12 *Car.* 2. *ch.* 34. 15 *Car.* 2. *ch.* 7.

And now by the Stat. 22 & 23 *Car.* 2. it is further provided, That the Juſtices of Peace ſhall a month before every Quarter-Seſſions, iſſue Warrants to High Conſtables, Petty Conſtables and Tythingmen, to make ſearch what Tobacco is then ſowen, planted or made, and by whom, and to make Preſentment thereof in Writing upon Oath at the next Quarter-Seſſions; which Preſentment ſhall be a Conviction in Law, unleſs the Party (having ten days notice before the Seſſions) traverſe the ſame there, and find Sureties to proſecute his Traverſe the next Quarter-Seſſions after ſuch Traverſe entred. 22 & 23 *Car.* 2. *ch.* 26.

Conſtables, Tythingmen, and other Publick Officers, ſhall from time to time, within fourteen days after Warrant from two or more Juſtices

of Peace, calling to them ſuch as they find convenient, deſtroy all Tobacco planted or growing in any Gound: If ſuch Tobacco be unconſumed fourteen days after receit of ſuch Warrant, ſuch Conſtables, Tythingmen, or other Officers reſpectively ſhall forfeit Five ſhillings for every Rod ſo ſet or planted, &c. And proportionably for a greater or leſs quantity; one moyty to the King, the other to him that will ſue for the ſame. 22 *&* 23 *Car.* 2. *ch.* 26.

Perſons refuſing to aſſiſt the Conſtable, &c. being convicted before two Juſtices of Peace, ſhall forfeit Five ſhillings, to be levied by diſtreſs and ſale of Goods, and for want thereof ſhall be committed for a week: And perſons forcibly reſiſting any Conſtable, &c. being convicted as aforeſaid, ſhall forfeit Five pounds, to be levied as aforeſaid; and in default thereof ſhall be committed for Three months. 22 *&* 23 *Car.* 2. *ch.* 26.

Phyſick-Gardens, and Gardens for Chirurgery excepted, as in the former Acts. Perſons ſued for acting in Purſuance of any of theſe three Acts of Parliament, may plead the General Iſſue, and give the ſpecial Matter in Evidence: This Act is to continue nine years, and from thence to the end of the Seſſion of Parliament then next enſuing. 22 *&* 23 *Car.* 2. *ch.* 26.

CHAP.

CHAP. XXXVII.

The Conſtables Office about Weights and Meaſures.

EVery City, Borough, and Market Town within *England*, ought to have common Weights and Meaſures ſealed, at which the Inhabitants themſelves may freely weigh; and all Forreigners muſt pay for every Draught under 40 pound, a Farthing, for a Draught between Forty and a Hundred, muſt pay an half-penny, and for Draught betwixt an Hundred and a Thouſand they muſt pay a Penny; wherewith the Weights are to be maintained, and the Officers which attend that Service are to be rewarded at the diſcretion of the ſaid Inhabitants. 8 *H.6.ch.5. Wingate's Stat. Tit. Weights and Meaſures.*

Every City which wants ſuch Weights and Meaſures forfeits Ten pounds to the King, every Borough Five pounds, and every Market-Town Forty ſhillings; and the chief Officers of ſuch Places, whether they be Conſtable, Bayliffs, or others are upon Requeſt to them made, to mark and ſign ſuch Weights and Meaſures to any of the Kings Subjects, taking for the marking of every Buſhel one penny; and none ought to ſell with any other Weights or Meaſures, but ſuch as are ſo marked. 8 *H. 6. ch. 5.* 11 *H. 7. ch. 4. Wingate's Stat. Tit. Weights and Meaſures.*

Mayors and chief Officers, &c. are at leaſt once every year to view all Meaſures and Weights within their Juriſdiction, and break

or burn them which they find defective, and alſo may inflict puniſhment upon the Offenders; for the firſt offence Six ſhillings Eight pence, for the ſecond Thirteen ſhillings and Four pence, and for the third offence Twenty ſhillings; and beſides, may adjudge them to the Pillory. *Wingate's Stat. Tit. Weights and Meaſures.* 11 *H.* 7. *c.* 4.

By the *Stat.* 22 *Car.* 2. *c.* 8. All Conſtables are impowred to ſearch and examine if any perſon buy or ſell by any other Buſhel then *Wincheſter* Meaſure, containing Eight Gallons to the Buſhel or Strike, and ſealed by the Clerk of the Market; and if any perſon do not ſtrike the ſame even with the brim; and any Conſtable may ſeize and break ſuch other Meaſure, and preſent the Offender at the next Private or Quarter Seſſions.

CHAP. XXXVIII.

The Conſtables Office about Watches.

THe Conſtables, &c. of every Town, are to cauſe Night-Wach to be kept from *Aſcenſion* till *Michaelmas*, in their Towns, which Watch muſt continue from Sun-ſet to Sun-riſe, and may be by two or four men, according to the greatneſs of the Town. 13 *E.* 1. *ch.* 4. *Dalt. J. P. ch.* 60. *fol.* 140. *Poul. Watch.* 1.

Theſe Watchmen are to apprehend all Strangers that paſs by them in the Night, and muſt examine them; and if they find cauſe of ſuſpicion in them, then they may keep them till the morn-

morning; and if the parties refuſe to obey the Arreſt, then the Watchmen may levy Hue and Cry for the taking of the ſaid Night-walkers; or the Watchmen may juſtifie the beating of them upon their reſiſtance, and ſet them in the Stocks till the morning, and then if no ſuſpicion be found in the parties, they may let them go quit: but if they find ſuſpicion in them, then the Watchmen may deliver them to the Conſtable, who is to convey them to a Juſtice of Peace to be examined, and to be bound over, or committed until they be acquitted according to due form of Law. *Dalt. J. P. ch.*60 *fol.*140. *& ch.*109. *fol.*292. 5 *E* 3.14. 5 *H.*7. 5. *a. Lamb. Office Conſt.*

Theſe Watchmen are alſo to apprehend Rogues and Vagabonds, Night-walkers, Eveſdroppers, Scouts, and ſuch like, and ſuch as go armed, &c.

And note, that theſe particulars following have been held for Law concerning Watches.

Firſt, That the Watch muſt be by men of able body, and ſufficiently armed, and that no man is compellable to watch, except he be an Inhabitant within the ſame Town.

Secondly, That ſuch as are Inhabitants within the Town, are not compellable to watch at the will of the Conſtable, but only when their turn cometh, according to the uſe and cuſtom of the place, which moſt commonly is by turn, or houſe.

Thirdly, If a man who is compellable to watch, ſhall contemptuouſly refuſe to watch, upon the command of the Conſtable; it hath been held, by ſome, that the Conſtable in ſuch caſe, *ex Officio*, may ſet the party in the Stocks for his contempt; but the ſafeſt way is for the Conſtable

to present such person for his default at the Assizes or Sessions of the Peace, or else to complain of him to a Justice of Peace, who may bind the Offender to the good behaviour, and so over to the next Quarter-Sessions, &c. *Dalt. J.P. ch. 60. fol. 141.*

CHAP. XXXIX.

The Constables Office about collecting the Assessments for the Incumbents in London.

BY the Statute of 22 & 23 *Car.* 2. the Annual Tythes of Parishes in *London*, whose Churches were demolished or consumed by the late Fire, whether single or united, or sums of money in lieu of Tythes for Maintenance of the Parsons, Vicars and Curates there, are ascertained: And thereby it is enacted, That the Impropriators of the said Parishes shall allow what they ought to do before the Fire, which is to be esteemed as part of the Incumbents Maintenance: That Aldermen and their Deputies, and Common-Council-men of the several Wards, with the Churchwardens and one or more of the Parishioners of the respective Parishes to be nominated by such Alderman, Deputy, Common-Council-men, and Churchwardens, or any five of them, whereof the Alderman, or his Deputy, should be one, should before the 20*th* of *May*, 1671. assess upon all Hereditaments whatsoever, except Parsonage and Vicaridge-Houses, the respective Sums by the said Act ascertained for each Parish, or so much of them as is more than what each Impro-

Impropriator is by the ſaid Act enjoyned to allow. 22 & 23 *Car.* 2. *ch.* 15.

Such Aſſeſsments might be reviewed and altered within three months after the 24*th* of *June*, 1674. and again within three months after the 24*th* of *June*, 1681. according to the aforeſaid Rules: And in default of the ſaid Alderman, Deputy, &c. Perſons authorized and required by the Lord Mayor and Court of Aldermen to make ſuch Aſſeſsment, might do the ſame. 22 & 23 *Car.* 2. *ch.* 15.

The ſaid Sums of Money are to be paid quarterly to the Parſons, Vicars and Curates: And upon refuſal or neglect by the Inhabitants to pay the ſame, and demand made at the Premiſes, whereout the ſame is payable, the Lord Mayor upon Oath of ſuch refuſal or neglect, may grant Warrants for the Collector, with aſſiſtance of a Conſtable in the day-time, to levy the ſame by diſtreſs and ſale of the Pariſhes Goods, rendring the overplus, over and above the Arrears due, and reaſonable Charges of diſtraining; And if the Lord Mayor or Court of Aldermen refuſe or neglect to execute the Laws given them by this Act, the Lord Chancellor, or Keeper of the Great Seal, or two Barons of the Exchequer, may by Warrants under his or their Hands and Seals, do what the Lord Mayor and Court of Aldermen ought to have done. 22 & 23 *Car.* 2. *ch.* 15.

CHAP. XL.

The Conſtables Office about Executing Warrants.

A Juſtice of Peace may direct his Warrant to the Sheriff, Bayliff, Conſtable, or other Officer, or to any other Indifferent perſon by Name, though he be no Officer. 14 *H.* 8. 16. *Bro. Peace* 6. *Dalt. J. P. ch.* 117. *fol.* 332.

A Warrant directed by the Juſtice of Peace to the Conſtable, or other ſworn Officer, and to a Stranger who is no Officer, and the Warrant is made to them joyntly and ſeverally, and is delivered to the Stranger who executeth it, this is good enough: and if a Warrant from a Juſtice of Peace be directed to two men joyntly to Arreſt another, yet any one of them may do it alone. *Cromp.* 147. *Dalt. J. P. ch.* 117 *fol.* 332.

If a Juſtice of Peace direct his Warrant to the Sheriff, he may by word command his Under-ſheriff, Bayliff, or other known and ſworn Officer, to ſerve it without any Precept to them in writing, and they upon ſuch Commandment of the Sheriff may lawfully do it. *Lamb.* 91. *Bro. faux Impriſ.* 43. *& Treſpaſs* 339. *Dalt. J. P. ch.* 117. *fol.* 332.

But if the Sheriff in ſuch caſe do command a Stranger, who is neither his Servant nor Sworn Officer, then he muſt do it by Precept in writing, or otherwiſe an Action of falſe Impriſonment lies for the Arreſt. *Dalt. J. P. ch.* 117. *fol.* 332.

Where a Warrant is directed by a Juſtice of Peace to the Sheriffs Bayliff, or his Servant, or

to

to the Conſtable, or other private perſon to Arreſt one, ſuch perſon cannot command another to do it, neither by word not writting, but muſt do it himſelf, *Co. 9. Lib. Rep. fol.* 69. 14 *H.* 7. 9. *b.* 20 *H.* 7. 13. 21 *H.* 7. 14. *Dalt. J. P. ch.* 117. *fol.* 332.

The Officer, to whom any Warrant ſhall be directed, ought with all ſpeed and ſecrecy to ſeek and find out the party, and then to execute his ſaid Warrant. *Dalt. J. P. ch.* 117. *fol.* 332.

A ſworn and known Officer (be he Sheriff, Under-Sheriff, Bayliff, or Conſtable) needs not to ſhew his Warrant to a man when he comes to ſerve it upon him, although he demand it; but he who is no ſworn Officer ought to ſhew his Warrant upon demand, or otherwiſe the party may make reſiſtance and not obey him, and a ſworn Officer alſo upon the Arreſt, though he will not ſhew his Warrant, yet he ought to acquaint the party with the contents thereof. *M. &* 8 *E.* 4. *f.* 14. *a. Bro. faux Impr.* 23. *Dalt. J. P. c.* 117. *f.* 332, 333. *Co. 6. Lib. Rep.* 54. *&* 9. *Lib. f.* 68.

Note, that an Officer giveth ſufficient notice what he is, when he ſaith to the party, *I arreſt you in the Kings Name, &c.* and in ſuch caſe the party at his peril ought to obey him, though he knoweth him not to be an Officer; and if he have no lawful Warrant, the party grieved may have his Action of falſe Impriſoment againſt him, *Co. 9. l. Rep. f.* 69. *Dalt. J. P. c.* 17. *f.* 333.

If a Conſtable or other Officer Arreſt a man for the Peace, or the like, before that he have a Warrant, and then afterwards doth procure a Warrant (or a Warrant cometh after him) to Arreſt the party for the ſame cauſe, yet the firſt

Arreſt

Arreſt was wrongful, and the Officer is ſubject to an Action of falſe Impriſonment. *Dyer f.* 244. *Lamb.* 93. *Dalt. J. P. c.* 117. *f.* 333.

Where a Warrant is granted out againſt *J. N.* the ſon of *L. P.* and the Conſtable, or other Officer takes *J. N.* the ſon of *L. P.* although he in truth be the ſame perſon that offended, and againſt whom the complaint was made, yet this Arreſt is tortuous, and the Officer liable to an Action of falſe Impriſonment. 10 *E.* 4. *f.* 12. *Bro. faux Imp.* 38. *Dalt. J. P. c.* 117. *f.* 333.

But it is ſaid by ſome, that where two or three are known by the Name of *J. R.* of *K.* Yeoman, and upon a Warrant of other Proceſs granted out againſt one of them, another of them is Arreſted, in ſuch caſe an Action of falſe Impriſonment will not lie againſt the Officer; *tamen Quære* hereof. 11 *H.* 4. *fol.* 90. 5 *E.* 4. *fol.* 51. *Dalt. J. P. ch.* 117. *fol.* 333.

Where an Officer hath received a Warrant, he is bound to purſue the effects of his Warrant in every behalf; or otherwiſe his Warrant will not excuſe him of that which he hath done. *Dalt. J. P. ch.* 117. *fol.* 333.

The Conſtable, or other Officer, upon a Warrant from a Juſtice of Peace for Treaſon, Felony, the Peace, or good behaviour, or in any other caſe where the King is party, may by force of ſuch Warrant break open a mans houſe to Arreſt the Offender; but in ſuch caſe he ought firſt to ſignifie the cauſe of his coming, and require them to open the Doors, before he break them open. *Co.* 5. *Lib. Rep. fol.* 9. 7 *E.* 3. 19. *Cromp.* 171. *Dalt. J. P. ch.* 78. *fol.* 204, 205. & *ch.* 117. *fol.* 333.

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If a Conſtable or other Officer hath arreſted a man by vertue of his Warrant, which he hath from a Juſtice of Peace, and then taketh his promiſe that he will come to him ſuch a day to go to the Juſtice with him, according to his Warrant (and ſo he letteth the party go) who comes not again at the day appointed, in this caſe the Officer cannot take him again upon the ſame Warrant, becauſe he was ſuffered to go by the conſent of the Officer; but if the party Arreſted had eſcaped of his own wrong, without the conſent of the Officer, in ſuch caſe upon freſh ſuit he may take him again, and again ſo often as he eſcapeth, although he were out of view, or that he do flie into another Town or County; and it is ſaid that the Officer in ſuch caſe, though the party be taken in another County after the Eſcape, yet he may bring the party before the Juſtice on whoſe Warrant he was firſt Arreſted. *Cromp.* 214. *a.* 148. 172. *&* 173. *Dalt. J. P. c.* 117. *f.* 333. *& c.* 118. *fol.* 340.

By the opinion of the Court of the 14 *H.* 8. it was held there that a Juſtice of Peace cannot make a Warrant to Arreſt a Felon, unleſs he be Indicted of Felony (or that the Juſtice himſelf hath a ſuſpicion of the Felon.) But if the Conſtable, or other Officer, ſhall ſerve ſuch a Warrant, he may juſtifie the ſame, though the Juſtice did err in awarding thereof. 24 *E.* 3. 9. 14 *H.* 8. 16. *Bro. Peac.* 6. *& faux Impr.* 8. *&* 9. *Dalt. J. P. ch.* 117. 331.

Note, That where a Juſtice of Peace doth make a Warrant for a matter wherein he hath Juriſdiction, though it be beyond his Authority, yet it is not diſputable by the Conſtable, or other ſuch Officer, but muſt be obeyed and executed

by

by them; as if the Juſtice ſhall make a Warrant to Arreſt one for the Peace, or good behaviour, &c. without any cauſe, the Officer ſhall not be puniſhed for executing the Warrant: But if a Juſtice of Peace ſhall make his Warrant to do a thing out of his Juriſdiction, or in a Cauſe wherein the Juſtice is nõt Judge, then if the Officer ſhall execute ſuch a Warrant he is puniſhable for it; for the Officer is not bound to obey him who is not Judge of the Cauſe, no more than he is bound to obey a meer Stranger; and ſo note that the Officer is bound at his peril to take notice of the Authority and Juriſdiction of the Judge. See *Plo. Com.* 394. *b.* 22 *Aſſ. fol.* 64. 14 *H.* 8. 16. *Lamb.* 67. 94. *Co.* 10. *Lib. Rep. fol.* 76. *Cromp.* 74. *Bro. faux Impr.* 8. *Dalt. J. P. c.* 117. *fol.* 334.

If any ſhall abuſe the Juſtice of Peace his Warrant, by caſting it into the dirt, treading it under feet, burning it, &c. for ſuch contempt the party may be bound to his good behaviour, and may alſo be indicted and fined for the ſame, for it is the Kings Proceſs. *Cromp.* 149. *Dalt. J. P. c.* 117. *f.* 334.

Where Hue and Cry either by the Common Law, or by force of any Statute is levied upon any perſon, the Arreſt of ſuch perſon is lawful, although the cauſe of the Hue and Cry be Feigned; and if the Cauſe be Feigned, he that Levies the ſame ſhall alſo be Arreſted, and ſhall be Fined and Impriſoned; but common Fame and Voice is not ſufficient to Arreſt a man in caſe of Felony, unleſs a Felony be done indeed. 29 *E.* 3. 9. 38 *E.* 3. 6. *Co.* 3 *part. Inſt. fol.* 118. 21 *H.* 7. 28. *a.*

FINIS.

Conductor Generalis.

A

GUIDE

FOR

Churchwardens, Overseers of the Poor, Surveyors of the High-ways, Treasurers of the County Stock, Masters of the House of Correction, Bayliffs of Mannors, Toll-Takers in Fairs, &c.

LONDON,

Printed in the Year, 1682.

To all Churchwardens, Overſeers, &c.

Gentlemen,

THeſe following Offices, as well as that of the Conſtable, have been touched alſo by Mr. Lambert, *and* Mr. Sheppard: *but ſince the one writ, there have been many hundred new Statute Laws; and the other, Writing in the late times of Rebellion, hath moulded his work ſuitable to the Manners then in faſhion, and many of the Rules laid down by* Mr. Sheppard *in theſe ſeveral Offices, which thwart the Laws of the Kingdom, and Priviledges of the Church, are now out of doors: I have therefore (for the eaſe and ſatisfaction of thoſe who deſire to be put in the right Way and ſure Road*

in

in the executing of theſe ſeveral Offices) collected and publiſhed this ſmall Treatiſe, briefly laying down the Authority and Duty of Churchwardens, Overſeers, &c. in their ſeveral Offices. The deſire of praiſe could not carry me aloft, who want Wings for it; but the main thing, here aimed at, is the good of my Country-men, and I hope to reap the fruit of my labour in it, that is, your kind acceptance, Dear Friends, which if I may obtain, it is all I deſired by him, who is, and ſhall be

Yours,

Ready to ſerve you,

George Meri

A GUIDE FOR CHURCH-WARDENS.

CHAP. I.

The Antiquity of the Churchwardens Office, and how they are to be chosen.

It is said by some Historians, that *Dionysius*, in the year of our Lord, 267. divided both in *Rome* and other places, Churches, Churchyards, and Parishes to Curates, and Dioceses to Bishops, and this was about 87 years after *Britain* had received the Christian Faith: For though Historians do not all agree when the Christian Faith was first planted here, yet it is thought by most of them to be in the Reign of King *Lucius*, about the year of our Lord, 180. but how long after it was before these Officers called Churchwardens were appointed, it cannot certainly be known; but Mr. *Lambert* and other Authors do agree, that they are very ancient Officers, and by the ancient Common Law they were, and are still to take care, see to, and preserve the Goods of the Church, *viz.* the Church-Books, Communion-Cups, &c. and other decent Ornaments and Furniture of the Church, which they do find there at their coming into their Office. 2. As

2. As to the choice of these Officers it is appointed by the Book of Canons printed in the first year of King *James*, *An. Dom.* 1604. That all Churchwardens, Questmen, Sidemen, or Assistants in every Parish shall be chosen by the joynt consent of the Minister and the Parishioners, if it may be: But if they cannot agree upon such a choice, then the Minister shall choose one, and the Parishioners another; and without such a joynt or several choice, none shall take upon them to be Churchwardens, neither shall they continue any longer then one year in that Office, except perhaps they be chosen again in like manner; and these Officers are to be yearly chosen in Easter-week. *Can.* 89, 90.

3. But note, where there is an ancient custom in any Parish for choice of Churchwardens contrary to this Canon, in such case the custom is to be observed before the Canon, as appears by several Cases hereafter mentioned.

4. If the Parishioners of a Parish have used time out of mind, &c. to elect one Churchwarden, and the Vicar another, and afterwards a Canon is made that the Vicar shall elect two, and he doth so accordingly, and the Parishioners elect one according to their custom, and the Ordinary disallows him, and establisheth the other two elected by the Vicar; in this Case a prohibition shall be granted. *P.* 5 *Jac. B. R. The Parishioners Case of* Rovenden *in* Kent. Rolls *Cases*, 2. *part*, *f.* 287.

5. A Prohibition was granted against a Churchwarden chosen by the Parson of St. *Magnus* nigh *London-Bridge*, by force of a Canon upon a surmise that the Parish had a custom to choo-

chooſe two Churchwardens, *Tr. 7 Car. 1. B. R. between Shirlye & Brown, Rot.* 1391. Roll's *Caſes, 2 part, fol.* 287. The like againſt a Churchwarden choſen by the Parſon of *Alhallows, London*, P. 17 *Jac. B. R. Warner's* Caſe, *&* P. 5. *Jac.* the Pariſhioners of *Walbrook's* Caſe in *London. Cro. 2 part, Rep.* The like againſt a Churchwarden choſen by the Parſon of St. *Thomas* in *London*, P. 15 *Car. 1. B. R. Evelin's* Caſe, *Cro. 3 part*, and the like granted between *Draper* and *Stone* for *Abchurch* in *London*, P. 4 *Car. 1. B. R. Rot.* 420. *Roll's* Caſes, 2 *part, f.* 287.

6. An Attorney cannot be made a Churchwarden: if he be put in and refuſe, and ſo be ſued in the Spiritual Court, he may have a Prohibition; P. 14 *Car. 1. B. R. Wilſon's* Caſe, *& Tr.* 15 *Car. 1. B. R. Barker's* Caſe. *Roll's* Caſes, 2 *part. f.* 272.

Note, That the Statute of 15 *Car.* 2. *ch.* 5. for Regulating Veſtries, was made to continue no longer then till the end of the firſt Seſſion of the next Parliament; and ſo is Expired.

CHAP. II.

The Churchwardens Office about Prophanation of the Sabbath, and of the Church.

1. THeſe Officers are diligently to ſee that all the Pariſhioners duly reſort to their Pariſh-Church upon all Sundays and Holydays, and there continue the whole time of Divine Service, and none to walk or ſtand idle, or talking in the Church, Church-yard, or Church-Porch during

during that time; and all such as shall be found slack or negligent in resorting to the Church (having no great or urgent cause of absence) they shall earnestly call upon them, and after due admonition, if they amend not, they must present their Names to the Ordinary of the place. 5, 6 *E.* 6. *c.* 1. *Canon* 19, 50, 111.

8. If the Churchwardens find any person absent from the Church upon Sundays or Holy-days, in the time of Divine Service, Preaching, or other holy Exercise, such person is to pay 12 *d.* to the use of the Poor; and this extends as well to all Women Covert, as to other persons: or the Churchwardens, if they please, may present such person in the Ecclesiastical Court. But note, that none are to be punished twice for one offence, so that they must not pay their 12 *d.* and be presented too. 1 *El. ch.* 2. *Hobbert's Rep. fol.* 97.

9. And if they find any Tipling in an Inn or Alehouse, &c. then, besides the twelve pence for being absent from the Church as aforesaid, they forfeit three shillings four pence more for Tipling, and the Master of the House ten shillings for suffering them to Tipple: which forfeitures are to go to the use of the Poor. 4 *Jac. c.* 5.

10. The Churchwardens or Questmen are to suffer no Plays, Feasts, Banquets, Suppers, Church-Ales, Drinkings, Temporal Courts or Leets, Lay-Juries, Musters, or any other profane usage to be kept in Church, Chappel, or Church yard; neither the Bells to be rung superstitiously upon Holy-days, or Eves abrogated by the Book of Common Prayer, nor at any other times, without good cause, to be allowed by

by their Minister of the place and by themselves. *Canon* 88.

11. Neither the Minister, Churchwardens, nor any other Officers of the Church, shall suffer any man to Preach within their Churches or Chappels, but such as by shewing their Licence to Preach shall appear unto them to be sufficiently Authorized thereunto: And the Churchwardens or Questmen are also to see that in every meeting of the Congreation the Peace be well kept, and that all persons excommunicated, and so denounced, be kept out of the Church. *Canon* 50. 85.

Every of the Officers, and other Persons appointed by the Act of 25 *Car.* 2. to take the Oaths of Supremacy and Allegiance, in the Respective Court where he takes the said Oaths, shall first deliver a Certificate of his receiving the Sacrament of the Lords Supper, as in and by the said Act is likewise appointed, under the Hands of the Respective Minister and Churchwardens, and shall then make proof of the truth thereof, by two credible Witnesses at the least upon Oath. 25 *Car.* 2. *ch.* 2.

CHAP. III.

Some few Cases concerning Actions for and against Churchwardens.

12. NOte, that the Law doth make of theſe Officers a kind of a Corporation, *viz.* Perſons enabled by that name to take moveable Goods or Chattels, and to ſue and to be ſued at Law concerning ſuch Goods for the uſe and profit of their Pariſh; for the property of the Goods of the Church is in them, and they are by that Name enabled to take them for the uſe and profit of the Pariſh: and therefore a man may well in his life time, or by his laſt Will, give or grant Money, or other moveable Goods to the Churchwardens, or Pariſhioners of ſuch a Pariſh, for the Reparations of the Church, or for buying of Books, Communion-Cups, Linnen Cloths, or other decent Ornaments or Furniture for the Church. 12 *H.* 7. *fol.* 27. *Finch's Law, lib.* 2. *ch.* 17. *pag.* 178. *Kitchin, pag.* 278. *a.*

13. But they cannot take an Eſtate of Lands to them by Name of Churchwardens only, for if a Feoffment be made to the uſe of the Churchwardens of *D.* this is a void uſe, for they have no capacity to take ſuch Purchaſe. *Finch. Lib.* 2. *ch.* 17. *p.* 179. *Roll's Caſes,* 1 *part. f.* 393.

14. Neither can they preſcribe to have Lands to them and their Succeſſors; for they are no Corporation to have Lands, but for Goods for the Church only. *P.* 37 *El. C. B.* Longley *and* Meredines's *Caſe.* Roll's *Caſes,* 1 *part. fol.* 393.

15. If

15. If a Man buy a Bell, and hang it up in the Steeple, or make a Pew and ſet it up in the Church, though he make neither words nor writing hereof, yet by this the Bell and Pew are ſo dedicated to the Church, that the party that did owe them, can never have them again; for if they ſhould come to remove them, the Churchwardens might ſue them for it. 8 *H.* 7. 12. 10 *H.* 7. 9. *Kitchin, pag.* 277. *a.*

16. They can have no action at Common Law to Recover any Goods of which they never had the poſſeſſion: But if the Churchwardens be once poſſeſſed of any Goods, or Ornaments belonging to the Church, and afterwards the ſame things are taken from them, then they have the ſame remedy for the things, as other men have for the Goods taken from them: And therefore if ſuch Goods be ſtoln, they may have an Appeal of Robbery, and if they be otherwiſe taken away or abuſed; as if a Bell be broken, or the like, the Churchwardens may have an Action againſt him that doth it: and in this Action they recover Damages to the uſe of the Pariſh, and not to their own uſe. *Tr.* 8 *E.* 4. *f.* 6. *b.* 37 *H.* 6. 32. *Finch. lib.* 2. *chap.* 17. *pag.* 178, 179. *Abr. Dalt. fol.* 76. *Kitchin, pag.* 277. *b.* & 278. *a.*

17. And it ſeems alſo, that the party that doth ſteal or take away any Goods belonging to the Church may be puniſhed for it as for a ſacrilegious offence: And obſerve, that if the Churchwardens from whom the Goods were taken be out of their Office, their Succeſſors, as it ſeems, may ſue for, or recover the ſame, or damages for them to the uſe of the Pariſh. *Vide M.* 31 & 32 *El. B. R.* Hadman & Kingwood's *Caſe, Cro. Rep.* 3 *Part.*

18. But note, that the Churchwardens have no ſuch property in the Goods of their Church, as thereby to have power to give, ſell, releaſe, hurt or impair them, without the aſſent of the Sidemen or Veſtry. *Vide* 38 *El.* Methold *and* Winne's *Caſe*, Roll's *Caſes* 1 *part. fol.* 393. and ſee *Hill.* 7 *Jac. B. R.* in Starky *and* Barton's *Caſe*. *Cro. Rep.* 2. *part. & vide* 13 *H.* 7. 9.

19. If the Churchwardens ſhall give or impair the Goods in their cuſtody, the Pariſhioners may chooſe new ones, who may have an account againſt their Predeceſſors. 8 *E.* 4. *fol.* 6. *b. Finch. l.* 2. *ch.* 17. *p.* 179.

20. If the Organs be taken out of the Church, the Churchwardens may have an Action of Treſpaſs for the ſame, for the Organs belong to the Pariſhioners, and not the Parſon; and therefore the Parſon cannot ſue ſuch party in the Eccleſiaſtical Court that took them. *Tr.* 12 *Jac. B. R. per Curiam*, Roll's *Caſes*, 1 *part. fol.* 293.

21. But if the Walls, Windows, or Doors of the Church be broken down, or the Trees in the Churchyard be cut down, or the Graſs thereof be eaten up, the Parſon or Vicar, and not the Churchwardens ſhall have an Action for it, for they are a Corporation only as to moveable Goods, and ſee 8 *H.* 6. *fol.* 9. where the Parſon brought an Action of Treſpaſs for breaking and entring into his houſe and cloſe, which was the Church and Church-yard. 10 *H.* 4. *fol.* 9. 21 *H.* 7. *fol.* 21, *& Parſon's Law*, *p.* 191.

22. The Churchwardens by the aſſent and agreement of the Pariſhioners, may take a ruinous Bell, and deliver it to a Bell-Founder, and agree with him that he ſhall have four pounds for caſting it, and that he ſhall retain the ſame till

till the four pounds be paid: and such Agreement of the Parishioners shall excuse the Churchwardens in a Writ of Account brought against them by their Successors Churchwardens. *M.* 37. 38 *El. B. R.* Methold *and* Winne's *Case.* Roll's *Cases*, 1 *part. fol.* 393.

23. If a Presentment be made by the Churchwardens in the Ecclesiastical Court, That *J. S.* one of the Parishioners is a Railer and a Sower of Discord amongst his Neighbours, a Prohibition lies in such case; for this belongs to the Leet, and not to the Spiritual Court, unless such Railing were in the Church, or such like place. *M.* 16 *Jac. C. B. Rot.* 716. Smith *and* Pannel's *Case*, Hobart's *Rep. fol.* 246. Roll's *Cases*, 2. *part. fol.* 286.

24. If the Churchwardens of a Church sue in the Ecclesiastical Court for a way to the Church, which they claim to belong to all the Parishioners by Prescription, in such a case a Prohibition will be granted, for this is a temporal cause. *P.* 16 *Jac. B. R.* between the Churchwardens of *Bythorn* and *Bow.* Roll's *Cases*, 2 *part. fol.* 289.

25. If the Churchwardens of *C.* sue in the Ecclesiastical Court *J. S.* for that he, and all those whose Estate he hath in such an House, &c. or the perambulation of the Parishioners of the Parish, did use to find a refreshing for them (to wit) Bread and Ale, and suffer them to rest there; here a Prohibition shall be granted, for that they claim it in nature of a Corrody; and if that should be suffered, a great inconvenience would ensue, *M.* 13 *Jac. B. R.* The Churchwardens of *Uffington's* Case in *Berkshire*, *Hill.* 15 *Car.* I.

B. R. The like Prohibition prayed in one *Lock*'s Caſe, which was referred to Juſtice *Jones*, *Rolls* Caſes, 2 *part*, *f.*287. The like Prohibition granted in one *Reynold*'s Caſe, *More*'s *Rep. fol.*———

26. If the Churchwardens of a Church ſue in the Court Chriſtian *J. S.* ſuppoſing by their Libel, that he and all thoſe who had an Eſtate in certain Lands adjoyning to the Churchyard, have uſed time out of mind to repair ſo much of the Fences of the Churchyard, which were next adjoyning to the ſaid Land, in this Caſe a Prohibition will be granted; for this ought to be tried at the Common Law, in ſo much as that it doth charge a Temporal Inheritance; *M.* 14 *Car.* 1. *B.R.* the Churchwardens of *Claydon* and *Duncomb*'s Caſe, *Roll*'s *Caſe*, 2 *part*, *fol.* 287.

CHAP. III.

The Churchwardens Office about diſpoſing of Seats in their Church.

27. THeſe Officers are to look to the repair of the Seats in the Church, but the diſpoſing of the Seats in the body of the Church, belongs of common Right to the Ordinary of the Dioceſs, ſo that he may place and diſplace whom he pleaſeth, except in ſome caſes. *Roll*'s Caſes, 2 *part*, *fol.* 288.

28. For if a Man and his Anceſtors, and all thoſe whoſe Eſtate he hath in a certain Meſſuage, have uſed time out of mind, &c. to repair an Iſle of the Church, and to ſit there and none elſe, the Ordinary in ſuch Caſe cannot diſplace him; for if he

he do, a Prohibition lies, becauſe he hath it by a Preſcription for a reaſonable conſideration. *M.* 10 *Jac. C. B.* Pimme's *Caſe, per curiam,* Roll's *Caſes, 2 part, fol.* 288.

29. If a man preſcribe that he and his Anceſtors, and all thoſe whoſe Eſtates they had in a certain Meſſuage, did uſe to ſit in a certain Seat in the body of the Church, time without mind, &c. in conſideration that he, and they, &c. have uſed time out of mind, to repair the ſaid Seat; if the Ordinary remove him from ſuch Seat, a Prohibition may be brought; for the Ordinary hath no power to diſpoſe of it, for it is a good Preſcription, and by intendment there hath been a good conſideration for the commencement of ſuch Preſcription. *Tr.* 12 *Jac. C. B.* Croſſe's *Caſe. M.* 13 *Jac. C. B.* Laugh & Huſſy's *Caſe, & M.* 13 *Jac. C. B.* Boothby & Day's *Caſe.* Roll's *Caſes, 2 part, fol.* 288.

30. But if a man preſcribe to have a Seat in the body of the Church generally, without conſideration to repair the ſame, then the Ordinary in ſuch caſe may diſplace him. *M.* 11 *Jac. B. R. per curiam, & M.* 13 *Jac. C. B. inter* Boothby & Bayly. *Hobbart's Rep. fol.* 69. Roll's *Caſes, 2 part. fol.* 288.

31. The Ordinary hath nothing to do with the Seats in the Chappels belonging to the houſes of Noblemen; *T.* 12 *Jac. C. B.* Roll's *Caſes, 2 part. fol.* 288.

32. But if a Lay-man by the diſſolution of Monaſteries hath a Monaſtery in which there is a Church, parcel of it, and he ſuffers the Pariſhioners for a long time to come to it, and do Divine Service, and to uſe it as their Pariſh-Church, this (unleſs for all the whole time the party hath

uſed to place men in their Seats himſelf) ſhall give Juriſdiction to the Ordinary to order the Seats; for that now in fact is the Pariſh Church, although that before it were not ſubject to the Ordinary. *Tr.* 12 *Jac. C. B.* Buzzard's *Caſe*, Roll's 2 *part. fol.* 228, 289.

33. If there be a cuſtom in a Pariſh, that twelve of the Pariſhioners may chooſe Churchwardens, which Churchwardens have power by the cuſtom to repair the Seats, and make new ones in the body of the Church, and to appoint what perſons ſhall ſit in them; and the Churchwardens ſo elected do erect a new Seat in the Body of the Church, and appoint a certain man to ſit there, and afterwards the Ordinary decrees that another ſhall have the Seat, here a Prohibition lies: for the cuſtom hath fixed the power of diſpoſing the Seats in the Churchwardens, *P.* 16 *Jac. B. R. Brabin* and *Tredennick*'s Caſe for a Seat in *Breock* Church in the County of *Cornwal*: but the reaſon of granting the Prohibition in this caſe, was partly becauſe that the Sentence of the Ordinary was, that *Tredennick* ſhould have the Seat to him and his Heirs, and that none ſhould diſturb him on pain of Excommunication, which is unreaſonable, and by ſuch Sentence he and his Heirs ſhould have it, though they were no Inhabitants within the ſame Pariſh. *Roll's Caſes*, 2 *part. fol.* 289.

CHAP.

CHAP. IV.

The Churchwardens Office about Reparations and Rates.

34. THese Officers are to see that the Church and Churchyard be well repaired and kept clean: and they are to provide Books of Common Prayer, Books of Homilies, a Parchment Book for registring Christnings, Weddings and Burials in, Fonts, Pulpits, Tables, Chests for Alms, Communion-Cups, Ornaments and other Furniture, and a Chest with three Locks and Keys for putting the same in: and they are also to provide Bread and Wine for the Sacrament according to the number of the Communicants. And for these purposes they may rate the Parish for money to do it, for which see 37 *H.*6.30.11 *H.*4.12. 11 *H.*7.27.12 *H.*7.10, *F.N.B.* 54.91. *Canon* 20.70.80,81,82,83,84,85.

35. Upon making of Rates for Reparations, &c. they are to be done by the Churchwardens with the Assent of the greater part of the Parishioners, and upon a general warning given before they assemble for that purpose; and note, that the Ecclesiastical Court hath Cognizance of the Reparation of the body of the Church. See *Jeoffry's* Case. *Co.*5. *lib. Rep. f.*67. *& Roll's* Cases, 2 *part. f.* 289. *M.* 31, 32 *El. B. R.*

36. If a man stay and inhabit in one Parish, and have Lands in another Parish which he occupies there, he may be charged for such Lands for the Reparation of the Church of the Parish where the Lands lie: because he may come there

when he pleaſes, and he is to be charged in reſpect of the Lands. *Co.* 5. *Rep.* 4. 67. *M.* 31 & 32 *El. B. R.* Jeoffry's *Caſe*, & *Tr.* 11 *Jac. C. B.* Andrew's *Caſe*, *per Curiam* Roll's *Caſes*, 2 *part. f.* 289.

37. But if an Inhabitant of a Pariſh Leaſe out his Lands which he hath in another Pariſh, reſerving Rent, then he ſhall not be charged in the Pariſh where the Land lies in reſpect of the Rent, becauſe there is a Pariſhioner and Inhabitant which may be charged. *Co.* 5. *Rep.* 4. 67 *b. M.* 5 *Jac. C. B.* Roll's *Caſes*, 2 *part. f.* 289. and ſee *P.* 41 *El. B. R.* Paget *and* Grumpton's *Caſe. Cro. Rep.* 1 *part. f.*

38. Neither can a man who Inhabits in one Pariſh, and occupies Lands in another Pariſh, be charged in that Pariſh where the Lands lie for the Ornaments of that Church according to his Land; for the Inhabitants only ought to be rated for them, and ſo it was adjudged by the Court. *M.* 20 *Jac. B. R.* Roll's *Caſes*, 2 *part. f.* 291. Winche's *Rep. fol. per* Yelverton.

39. Neither can a man be charged in the Pariſh where he doth inhabit, for the Lands which he occupieth in another Pariſh, towards the Reparation of the Church in the Pariſh where he liveth; becauſe then he might be twice charged, for he may be charged in the Pariſh where the Land lies, as is ſhewed before, *Sect.* 38 P. 16 *Jac. B. R. Sir* William Butler *Vers.* Roll's *Caſes*, 2 *part. f.* 289. *Co.* 5. *Rep. f.* 67.

40. If a petty Chapman take a Stall in the waſte of a Mannor for Rent, within the Market for two or three hours every Market-day to ſell his Commodities, the Market being held there one day every week, but he inhabits in another Pariſh, here he cannot be rated to the Reparation

tion of the Church for ſuch Stall or Standing. *M.* 20 *Jac. B. R.* between *Holms* and the Churchwardens of *Kettering* in *Northamptonſhire*, reſolved, and a Prohibition granted accordingly. *Roll*'s Caſes, 2 *part. f.* 289.

41. If a Citizen of *London* build an houſe in the Pariſh of *A.* and inhabit there in the the time of Sickneſs in *London*, and hath not any Land in the Pariſh, and afterwards he is aſſeſſed 20 *s.* for the Reparation of the Church, where others that have an 100 Acres of Land in the ſame Pariſh pay but 6 *d.* yet notwithſtanding no Prohibition lies in this caſe in the Court Chriſtian, becauſe they have the Juriſdiction of the thing; and therefore he muſt be ordered according to their Law. *M.* 5. *Jac. C.B. Sir* Robert Ley's *Caſe.* Roll's *Caſes*, 2. *part. f.* 289.

42. If there be a Chappel of Eaſe within a Pariſh, and one part of the Pariſh have uſed time out of mind, &c. to repair the Chappel themſelves without the reſt of the Pariſhioners, and there to hear ſervice, and Marry, and all other things, but only that they bury at the Mother-Church; here notwithſtanding they ſhall not be diſcharged of the Reparation of the Mother-Church, but muſt contribute to it; for the Chappel was ordained only for their eaſe. *M.* 13 *Jac. C. B.* between the Churchwardens of *Aſhton* and the Inhabitants of *Caſtle-Bromage.* Roll's 2. *part. f.* 289. *& Hob. Rep.* 4. 66.

43. If all the Pariſhioners in the Pariſh are not rated, but ſome are, and ſome are not; and thoſe who are rated, are ſued in the Eccleſiaſtical Court, yet they cannot have a Prohibition, but muſt plead this matter in the Spiritual Court. *M.* 11 *Jac. B. R. per curiam.* Roll's *Caſes*, 2 *part. f.* 291.

44. If the greater part of the Parishioners of a Parish where there are four Bells, agree that there shall be made a fifth Bell, and it is made accordingly, and they make a Rate for payment for it, this shall bind the remainder of the Parishioners, although they did not agree to it; for otherwise any obstinate persons might hinder any thing intended, and what is fit for the Ornament of the Church. *M.* 2 *Car.* 1. *B. R.* Roll's *Casts*, 2 *part. f.* 291.

45. Note, That a man ought to be rated according to his personal Estate, and not according to his Lands for the Ornaments of the Church. *M.* 20 *Jac. B. R.* Roll's *Casts*, 2 *part. f.* 291.

46. These things hereafter mentioned are accounted Church-Reparations, *viz.* the Walls of the Church and Church-Steeple, the Churchyard Walls of Stone or Brick, the Windows of Stone or Brick, and the Bars of Iron, and Glass, the Roof of Timber, with Laths, Nails, Prigs, Dogs and Bolts of Iron, the covering of Lead, Tile, Slates, or Shingles, the Floor with Stone or paving Tile, the Doors of Timber with Locks, Keys, Ridges, Hooks and Nails, the furniture of the Steeple with Stairs, Floors, Bells, Wheels and Ropes, the Pulpit and the Pews or Seats, not made by private men, and all these are to be performed by Land-Rate, &c. though the occupier lives in another Parish, as afore shewed.

47. But these hereafter mentioned are not properly Church-Reparations, *viz.* the Communion-Table, with the Coverings thereof, the Communion-Cups, the Bread and Wine for the Communicants, the Bible and other Books appointed to be in Churches, the washing of the Communion-Clothes, the Candles for the Lecture days,

days, the Surplice, the Pulpit-Cloth and Cushion, the Clerk and Sextons wages, and expences of the Churchwardens and Sidemen at the Visitation; and therefore all these are to be performed Ratably by the Inhabitants of the Parish, and not by Out-dwellers.

By the Statute of 22 & 23 *Car.* 2. intituled (An Act for the better paving and cleansing the Streets and Sewers in and about the City of *London*) it is enacted, That where any Church or Church-yard shall be fronting or adjoyning to any of the Streets, Lanes, or Passages before mentioned in the said Act, the Persons authorized and appointed to impose Taxes upon Houses in proportion to the benefit they receive, shall rate and assess a reasonable proportion thereof upon the Parish thereunto belonging, the same to be paid by the Churchwardens of every such Parish for the time being, who are by the said Act required to pay the same accordingly on behalf of the same Parish. 22 & 23 *Car.* 2. *ch.* 17.

CHAP. V.

Some Cases wherein the Churchwardens are equally concerned with the Constables and Overseers of the Poor. See fol. 32, 33, 34. *their Power against Conventicles.*

48. IF any of their own authority shall wilfully disturb any Minister in his Preaching or Reading Divine Service, the Churchwardens or Constables may of their own Authority apprehend such persons, and bring them to a Justice

a Juſtice of Peace to be dealt with accordiug to Law. 1 *Mar. Sect.* 2. *c.*3. See *the Conſtables Guide, ch. Diſturbing of Miniſters, &c.*

49. Theſe Officers are to joyn with the Overſeers of the Poor in the execution of their Office, for they have an equal Authority and Charge with them in the execution of the whole Office; therefore ſee afterwards in the Office of *Overſeers of the Poor, ch.* 1.

50. If a Rogue be brought to theſe Officers, they muſt receive him and look to him, or forfeit 5 *l.* and be bound to the good behaviour. *Stat.* 32 *El.* See *Conſtables Guide, ch. Rogues, &c.*

51. Theſe Officers, by Warrant from a Juſtice of Peace, may levy the forfeiture for Curſing and Swearing which is 12 *d.* upon the Offenders Goods. 21 *Jac. c.* 20. 3 *Car.* 1. *ch.* 4. See *Conſtables Guide, ch. Swearing, &c.*

52. If any forfeiture be by any offence about killing Hares, Pheaſants, or Partridges, and the Juſtice of Peace force the payment thereof to theſe Officers, they are to ſee it imployed to the uſe of the Poor of the Pariſh. 1 *Jac. ch.* 27.

53. Theſe Officers are to preſent the Offences againſt the 1 *Jac.* for ſuffering Tipling and Drunkenneſs, and ſelling by unlawful meaſure, and are to execute the Warrants from the Juſtices concerning the ſame, 1 *Jac. ch.* 9. 1 *Car.* 1. *ch.* 4. 21 *Jac. ch.* 7. 4 *Jac. ch.* 5. See *Conſtables Guide, ch. Alehouſes, &c.*

54. Theſe Officers alſo are to execute the Warrant againſt ſuch as profane the Lords-Day. 1 *Car.* 1. 1. *ch* 3. *Car.* 1. *ch.* 1. 29 *Car.* 2. *ch.* 7. See *Conſtables Guide, ch. Prophanation of the Sabbath.*

55. Theſe

55. Theſe Officers alſo are to execute the Warrants againſt ſuch as deſtroy Fiſh unlawfully. 3 *Jac. chap.* 12. See *Conſtables Guide, ch. Fiſh, &c.*

56. Theſe Officers are alſo to joyn with the Conſtables, in the making of Rates for the Relief of poor maimed Souldiers and Mariners, and for conveying Priſoners to the Goal, and to execute the Warrants for the ſame. 43 *El.* 14 *El. ch.* 5. 3 *Jac. c.* 10. See *Conſtables Guide. ch. Quarter Moneys, &c. conveying Priſoners to the Goal.*

57. There Officers are alſo to joyn with the Conſtables in the chooſing of Surveyors for the High-ways, and in ſetting down of days for the work, and in over-ſight of the High-Conſtables Account for the Monies they do receive upon any forfeiture about the High-ways; and they may alſo with the help of two Juſtices of the Peace (*Quor. unus*) force High-Conſtables that have received any Monies forfeited for default of High-ways, to account for it, and pay in, what is in their hands to be imployed about the High-ways; 2 *&* 3 *P. & M. ch.* 8. *Vide Conſtables Guide, c. High-ways.*

58. Theſe Officers have equal Authority with the Conſtable or Overſeers of the Poor, about the ſeizing of foreign Cattel Imported into *England, &c.* 18 *Car.* 2. *ch.* 2. 20 *Car.* 2. *ch.* 7. 32 *Car.* 2. *ch.* 2. And by 32 *Car.* 2. *ch.* 2. theſe Officers and the Overſeers of the Poor are to diſtribute the ſaid Cattel when killed (except the Hides and Tallow) to the Poor.

For the duty of theſe Officers, where no *Affidavit* is made upon the Acts for burying in Woollen, *vide Overſeers Guide, ch.* 6.

For

For the better discovery of the Offenders in detaining the Monies given for the Relief of the Poor of the City of *London*, at the times of the late Plague and Fire, All Archbishops, Bishops, Archdeacons, Deans and Officials, in their Visitations, shall give it in charge to all Ministers, Churchwardens, and Sidesmen, that they Present the Names of all such Persons as they know or believe do detain any of the said Monies, and the Sum so detained by them. 22 & 23 *Car.* 2. *ch.* 16.

CHAP. VI.

The Churchwardens Office about passing Accounts, together with the Heads of most of the things which they are to present in the Visitation Court.

59. ALL Churchwardens at the end of their year, or within a month after at the most, are before the Minister and Parishioners to give up a just Account of such Monies as they have received, and also what particularly they have bestowed in Reparations or otherwise for the use of the Church: And last of all, going out of their Office, they must truly deliver up to the Parishioners whatsoever Monies or other things of Right belonging unto the Church or Parish which remains in their hands, that it may be delivered over by them to the next Churchwardens by Bill Indented. *Vide Canon* 89.

60. And if they refuse to do this, they may be presented at the next Visitation Court for it, or the

the ſucceeding Churchwardens may have an Action of Account againſt them by the Common Law, and compel them to give an Account, and anſwer for their doings during the time of their Office; And if they have done the Pariſh any wrong, to make amends and ſatisfaction for the ſame to the uſe of the Pariſh for the harm it hath received by their default: And in this Account the old Officers ſhall have allowances for all the needful Sums of Money laid out or ſpent by them, either upon the Reparations of the body of the Church, Tower, or Bells, &c. or for Relief of the Priſoners in the Gaol, or otherwiſe where the Law doth injoyn them to pay or diſburſe any money. *Vid.* 8 *E.* 4. *f.* 6. *b.*

61. Now as touching the Churchwardens Preſentments. Note, That no Churchwardens, Queſtmen or Sidemen of any Pariſh ſhall be inforced to exhibit their Preſentments to any having Eccleſiaſtical Juriſdiction, above once in every year, where it hath been no oftner uſed, nor above twice in any Dioceſs whatſoever, except it be at the Biſhops Viſitation; for the which preſentment of every Pariſh, Church, or Chappel, the Regiſter of any Court where they are to be exhibited, ſhall not receive in one year above four pence, under pain of every offence therein, of ſuſpenſion from the execution of his Office for the ſpace of one month *toties quoties*, but the Churchwardens may voluntarily upon their own account preſent oftner if they pleaſe. *Canon* 116.

62. But no Churchwardens, Queſtmen or Sidemen, ſhall be called or cited, but only at the ſaid time or times before limited, to appear before any Eccleſiaſtical Judge whatſoever, for refuſing at other times to preſent any faults com-

committed in their Pariſhes, and puniſhable by Eccleſiaſtical Laws; neither ſhall they, nor any of them, after their Preſentments exhibited, at any of thoſe times be any further troubled for the ſame, except upon manifeſt and evident proof it may appear, that they did then willingly and wittingly omit to preſent ſome ſuch publick crime or crimes as they knew to be commited, or could not be ignorant that there was then a publick fame of them, unleſs there be very juſt cauſe to call them for the Explanation of their former Preſentments: In which caſe of wilful omiſſion, their Ordinaries ſhall proceed againſt them in ſuch ſort, as in cauſes of wilful perjury in a Court Eccleſiaſtical it is already by Law provided. *Canon* 117.

63. Note, That one of the two times for Preſentments is always to be about a Week or a Fortnight after *Eaſter*, at which time alſo the old Churchwardens are to leave the Office, and new ones are to come in, but the new ones are not to be ſworn till the old ones have given in their Preſentment, and every Parſon or Vicar, and in the lawful abſence of the Parſon or Vicar, then their Curates and Subſtitutes are to joyn in every Preſentment with the Churchwardens, Sidemen and Queſtmen; and if the Churchwardens, &c. refuſe to preſent, then every ſuch Parſon and Vicar, or in their abſence, as aforeſaid, their Curates may themſelves preſent to their Ordinaries at all ſuch times, and when elſe they think meet. *Canon.* 113. 118.

64. The Heads of the Articles, moſt commonly exhibited to the Churchwardens to make their Preſentments upon, are as followeth:

65. *Whe-*

65. *Whether their Church and Chancel, Bells and Ropes be good and well repaired, and the Ten Commandments, Lords-Prayer, and Creed, drawn out in fair Letters, the Kings Arms set up, Assessments made for the Repair of the Church, and who refuses to pay? If they have a Font, Communion-Table, Carpet, Table-cloth, Flaggons with Cups, and Cover for Bread and Wine, Reading-Desk, Pulpit with a Cushion, and Covering fit for it, a Common Prayer-Book of the largest Volume; and the Bible of King* James's *Translation in Folio, with a Book of Homilies, and Book of Canons, and a Surplice? If the Tombs, Monuments and Grave Stones be safely kept from removing and breaking; a Book of Parchment for Registring, Christnings, &c. A Chest with three Locks to put the same and the Church Ornaments in, with a Box for Alms, and a Table of Degrees prohibited in Marriage, set forth 1563. hung up in the Church? And if the Parsonage-house and out-houses be in good repair; and the Churchyard well fenced to keep out Swine, &c.*

66. *Then, whether their Parson, Vicar, or Curate, read the Common Prayer at Morning and Evening Service, wear his Surplice, bid Holydays, Preach every Sunday, or read a Homily, Catechise, observe the* 5th *of* November, 30. Jan. *and* 29. May, *and keep Perambulations, Preach sound Doctrine, and vent no Sedition against the King or Government, Celebrate the Lords Supper three times every year at least, whereof at* Easter *for once; Baptise Infants with Godfathers and Godmothers, visit the Sick, and pray with them, Bury the Dead according to the Book of Common Prayer, Marry none Clandestinely; Preach in his Gown, be a man of a sober and chaste life, a Peace-maker amongst his Neighbours, and one that takes care to reduce Sectaries, Popish Recusants, Separatists and Refractory*

Refractory persons to the Obedience and Doctrine of the Church, and reads the Book of Canons to the People at least once every year, and the 39 Articles twice every year, according to his Majesties Letters published 1662.

67. *Then, whether all their Parishioners of due Age, resort to the Church to Divine Service, behave themselves reverently there, Kneel, Stand up, and make answer according to the Rubrick of the Common Prayer Book? whether any work or sell wares on Sundays or Holydays, or Vintners, Victualers, Innkeepers, or others, receive any into their houses to tipple on those days? whether any Marry within the prohibited Degrees, be Adulterers, Fornicators, Blasphemers, Swearers, Drunkards, or Sorcerers, and if all above sixteen years old receive the Lords Supper at least three times every year, Easter to be one? and whether any keep their Children unbaptized? Women after Delivery in due time come not to be Churched, or any bring not their dead to be buried after the Service of the Church, keep Conventicles, have been married without Banes or Licence at unlawful hours? and whether their Almshouses, Hospital, School, or Spittle, if they have any, be well and godlily used, or any thing detained from it? What Legacies given to pious uses; and if the Parishioners be placed into Pews or Seats, without offence or contention.*

68. *And lastly, whether their Parish Clerk and Sexton (if they have any) be duly chosen, can write and read, be of honest life, and make the Responses to the Hymns and other Suffrages? and if the Schoolmaster, and usher, Physician, Chirurgion, or Midwife, (if they have any of them) teach or practise without Licence? if the Churchwardens be duly chosen in the week after* Easter, *by the Parson and Parishioners, according to the Canon or custom? and if the old*

Church-

Churchwardens have been diligent to keep the Church in good Repair, to preſerve all the Furniture thereof, and walk out of the Church uſually about the midſt of Divine Service, to ſee who are abroad in the Alehouſe, or elſe where abſent or evilly imploy'd.

69. Theſe are the Heads of moſt of the Articles that are inquired of at the Viſitation Courts; but it is probable there may be ſome ſmall alteration, according to the uſe of the ſeveral Dioceſſes in ſeveral places.

FINIS.

A GUIDE FOR Overseers of the Poor.

CHAP. I.

Of the Antiquity of the Officers, their Qualifications, and how and when to be chosen.

1. THis Office of Overseers of the Poor, is a Name and Office of great Excellency and Antiquity, and may beseem the best and not the meanest men in a Parish; for this is not the least Office, to be called *Overseers of the Poor*: for as God himself hath a special respect to the miseries of the Poor, so they be like God which provide for the Necessities of the Poor.

2. Now it is certain, that the Antiquity of this Office is above sixteen hundred years standing, as appears by holy Writ; for we find St. *Stephen* the Proto-martyr, a man full of Faith and of the Holy Ghost, and *Philip* and *Prochorus*, and *Nicanor*, and *Timon*, and *Parmenas*, and *Nicholas* a Proselyte of *Antioch*, chosen to this Office, as appears *Acts* 6.5. and see *Acts* 20. & 28. & 1 *Cor.* 16, 2, 3.

3. As

3. As for the qualifications of these Officers they ought to be substantial persons, having competency of Wealth, Wisdom, a good Conscience, and of honest Report; see *Acts 6. & 3. Dalt. J. P. c. 40. f. 93.*

4. Now these Overseers of the Poor, here with us in *England*, are certain Officers appointed yearly to be joyned and assistant to the Churchwardens of the Parish, in the over-sight and ordering of the Poor of the Parish, and they are to be appointed by two or more Justices of the County (whereof one to be of the *Quorum*) dwelling in or near the Parish or Division, &c. who are yearly under their Hands and Seals, at *Easter*, or within a month after to appoint four, three, or two substantial Housholders, (according to the greatness of the Parish to be joyned with the Churchwardens of the Parish) and all these together are to look to the Poor of the Parish; for the Churchwardens of the place have an equal power and charge with the Overseers, and may be punished for their neglect, if they refuse to meddle herein, 43 *El. c. 21 Jac. c. 28. Dalt. J. P. c. 40. f. 93. Wingate's Stat. Tit. Poor People.*

5. The major part of these Officers, without the rest of them may do any thing belonging to their Office. But they are to have the allowance and consent either in particular or in general of Two Justices of the Peace (*Quor. unus*) to every thing they do about their Office. And these Officers, or such of them as shall not be let by just excuse, (to be allowed by two Justices) are to meet monthly in the Church on Sunday after Evening Prayer, and there are to consider of some meet directions about their Office, and they are to use all possible diligence in their Office, on pain

to

to forfeit for every such Default twenty shillings. 43 *El. c.*2. *Wingate's Stat. Tit. Poor People.*

6. And if it happen that Overseers be not appointed according to the 43 *El.* then every Justice of Peace, or Head-Officer of that Division or Corporation shall forfeit 5 *l.* to be levied by a Sessions Warrant, and imployed to the use of the Poor of the Parishes where such default is made, 43 *El. ch.* 2. *Wingate's Stat. Tit. Poor People.*

CHAP. II.

Of the several Sorts of Poor People, and what Poor the Overseers are to provide for and relieve, or to set to work.

7. NOte, That there are three sorts or degrees of Poor, as first the Poor by Impotency and defect, as the aged and decrepit that are past their labour; the Infant Fatherless and Motherless, and not able to work, the person naturally disabled either in Wit or Member, as an Ideot, Lunatick, Blind, Lame, &c. not being able to work, and the person visited with grievous sickness or disease, though casually, yet thereby for the time being impotent. All these the Overseers are to provide for, that they have necessary Relief and Allowances proportionable and according to the continuance and measure of their maladies and needs, and of these it may be said, *Si non pavisti, occidisti. Dalt. J. P. c.* 40. *f.* 100.

8. Then Secondly, the Poor by casualty, as a person casually disabled or maimed in his body,

body, as the Souldier or Labourer, &c. maimed in their lawful Callings, the Houſholder decayed by caſualty of Fire, Water, Robbery, Suretiſhip, &c. and the poor man overcharged with Children: All theſe (and ſuch like others) having ability and ſtrength of body, but not ſufficient means to maintain themſelves, are to be ſet to work by the Overſeers, and being not able to live by their work, they are in Charity to be relieved in ſome reaſonable proportion, according to their ſeveral wants and neceſſities. *Dalt. J. P. ch.* 40. *f.* 100.

9. Then laſtly, The thriftleſs poor, as the riotous and prodigal perſon, that conſumes all with play or drinking, &c. the diſſolute perſon, as the Strumpet, Pilferer, &c. the Slothful perſon that refuſeth to work, &c. and the Vagabond that will abide in no place or ſervice; and for all theſe the Houſe of Correction is the place where they are to be ſent to, and being of able bodies there they are to be held to hard labour, and to maintain themſelves by their labour and work, without charging the Town or Country for any allowance. 7 *Jac. ch.* 4. *Dalt. J. P. ch.* 40. *f.* 101.

10. But it ſeemeth that if any of theſe laſt ſort of Poor happen to prove impotent, and alſo in caſes of manifeſt extremity, then they are to be relieved by the Town. *Dalt. J. P. c.* 40. *f.* 101.

11. If the Parents be able to work, and may have work, they are to find their Children by their labour, and not the Pariſh; but if they be overcharged with Children, they may help, by having ſome of their Children put out Appentices by the Overſeers. *Dalt. J. P. c.* 40. *f.* 98.

12. The Father, Grandfather, Mother, Grandmother, and the Children and Grandchildren of every poor impotent perſon not able

to

to work, being of sufficient ability, shall relieve such poor persons in such manner, as the Justices of Peace of that County (where such sufficient person dwelleth) at their General Quarter Sessions shall Assess; and if such person refuse to abide the order, they forfeit 20 *s.* for every month to the Poor of the Parish, which forfeiture is to be levyed by the Churchwardens or Overseers, or one of them, by Warrant from any two Justices of the Peace (*Quer. unus*) within their Limits, by distress and sale of the Offenders goods, and for want of distress, any two such Justices may commit the Offender to Prison, there to remain without Bail till the said forfeiture be paid. 43 *El.* 2. *Resol. Judges* 16, 17. *Dalt. J. P. c.* 40. *f.* 98.

13. But note, That if a man marry a Grandmother that hath no Estate, the Grandfather in Law is not chargeable: But if she hath an Estate caused without such marriage, or that comes after marriage by descent or otherwise to her, here he may be charged: But where they have raised themselves an Estate by their own Industry there it is doubtful. But in no case shall he be charged longer than his wife lives; and it seems also Bastard Children are not within this Law, neither can the Justices do any thing therein against a man that lives out of their County. See *Boulstred's Rep.* 2. *part. f.* 245, 246, 247.

14. No Poor may beg but in their own Parish, and there by Licence of the Overseers of the Poor; and they may not licence them to beg in the high ways there, and without the licence of the Overseers they may not beg at all. *Res. Judges* 15. *Dalt. J. P. c.* 40. *f.* 99. 39 *El.* 3.

15. No Inhabitants may serve any Poor at the ir

Door, but those of their own Parish, that have licence from the Overseers of the Poor to beg there, under pain of 10 s. for every time they do so. 1 Jac. 7. Dalt. J. P. ch. 41. fol. 126.

16. These Officers to make provision for a poor man that wants an House (but not for a common Herdsman or Shepherd) with consent of the Lord of the Mannor first had in writing under his Hand and Seal either by themselves, or with a Sessions Order, may erect a Cottage upon any part of the Waste of a Mannor, and lodge Inmates therein, notwithstanding the *Stat.* 31 *El.* 7. But such Cottage may not be afterwards employed otherwise than to lodge impotent persons there; for if it be, then it falls within the penalty of the 31 *El.* aforesaid, 43 *El. c.* 2. *Wingate's Stat. Tit. Poor People.*

17. All such persons married or unmarried, having no means to maintain them, use no ordinary and daily Trade of life to get their living by, and such persons also as can get no work, are to be set on work by the Overseers; and any one Justice of Peace may send to the House of Correction, or Common Goal, such as shall not imploy themselves to work, being appointed thereto by the Churchwardens and Overseers of the Poor of the Parish. 34 *El. c.* 1. *Dalt. J. P. c.* 40. *f.* 93.

18. And to this purpose the Churchwardens and Overseers of the Poor may by, and with the consent of two or more Justices of the Peace (*Quorum unus*) *&c.* Set up, use, and occupy any Trade, Mystery, or Occupation, only for the setting on work, and better relief of the Poor of the Parish, Town, or Place, where they are Overseers, *&c.* 3 *Car. 1. ch.* 4. *Dalt. J. P. ch.* 40. *f.* 94. *Wingate's Stat. Tit. Poor People.*

CHAP.

CHAP. III.

The Duty of the Overſeers about putting forth and binding of Apprentices, with the form of the Indenture for that purpoſe.

19. IN the putting out of Children Apprentices, there ought to be regard had to the Maſter, the Child, and the Parents; Firſt to the Maſter, that he be of ability and honeſty, otherwiſe by ſome device or hard intreaty they may provoke their Apprentices to depart or run away, and regard is alſo to be had to his Trade or Faculty, leſt the Apprentice conſume his time without learning any thing: Secondly, Regard is to be had to the Apprentices to put them out timely, and while they are young and tractable (ſo that they be above the age of ſeven years) otherwiſe by reaſon of their idle and baſe Educations they will hardly keep their Service or imploy themſelves to work: Then laſtly Regard is to be had to the Parents to take away ſuch from them as are brought up to live idly and looſly, or elſe ſuch as are a burthen and charge to their Parents. *Dalt. J.P.ch.40.f.94,95.*

20. Note, That the choice of theſe Apprentices are to be out of the pooreſt ſort of Children, whoſe Parents are the leaſt able to relieve them, and they are to be above 7 and under 15 years of age, when they are firſt bound. 7 *Jac. c.* 3. *Wingate's Stat. Tit. Poor People.*

21. And theſe Officers are to have the conſent of two Juſtices of the Peace in the placing out of ſuch Apprentices; and they may bind the Man-child till 24 years of age, and the Woman-child

till 21 years of age, or till ſhe be married, which ſhall firſt happen: And theſe Apprentices may be bound to Weavers, Maſons, Dyers, Fullers, or any other Trade, as well as to Husbandry or Houſewifery. See 43 *El. ch.* 2. *Dalt. J.P. ch.* 31. *f.* 83. *Wingate's Stat. tit. Poor People.*

22. Now this placing of Apprentices may be to any man, whom the Officers and Juſtices think fit to receive them, within the ſame Pariſh or elſewhere in other Pariſhes within the ſame Hundred either with, or without money; therefore it is fit in this caſe to conſider, if the Child be young, and the party to whom they place it is not very able, then they may give Money, if they pleaſe, as the party and they ſhall agree. *Reſ. Judges* 1633. *Queſt.* 1.

23. All men that have, or may have uſe for Servants, as Knights, Clergy-men, Gentlemen, and Yeomen, as well as Tradeſmen, are bound to take Apprentices; yea, though wealthy men Table themſelves, or live ſo privately, that they have no uſe for a Servant, yet they may be compelled to take them, or elſe to pay a ſum of Money for putting them Apprentices elſewhere; and if they refuſe to pay the ſum impoſed upon them, Two Juſtices of the Peace may make their Warrant to levy the ſame by diſtreſs and ſale of the Offenders Goods. *Reſ. Judges* 1633. *Queſt.* 4. *Poult.* 2. 4. *Dalt. J.P. c.* 40. *f.* 95.

24. Or the Refuſers to take Apprentices may be preſented and indicted for the ſame, upon the *Stat.* 43 *El. c.* 2. at the Aſſizes or Seſſions of the Peace. *Dalt. J.P. c.* 40. *f.* 95. *Reſ. Judges*, 1633. *Queſt.* 7.

25. An apprentice put to a man in reſpect of his Farm when his Leaſe expireth, the Apprentice ſhall

ſhall go ſtill with the Farm, if the firſt Maſter be ſo pleaſed; otherwiſe it is where an Apprentice is put to a man in regard of his ability, or for other reſpects. And where any differences are between the Officers and the man that is to receive an Apprentice, about money, and what money ſhall be given or otherwiſe, here the Juſtices thereabouts, or, in their defaults, the Seſſions muſt end it. *Reſol. Judges*, 1633. *Queſt.* 2. *Dalt. J.P.c.*40.*ſ.*95.

26. If the Parents of poor Children ſhall refuſe to let their Children be put forth Apprentices (without good cauſe ſhewed) ſuch Parents may be bound over, by the Juſtices, to anſwer their ſaid default, and if the Children ſhall refuſe, the Juſtices may ſend them to the Houſe of Correction, there to remain till they be content to be bound & ſerve. *Dalt. J.P.c.*40.*&* 31.*ſ.*96.*&* 78.

27. Note, that this binding muſt be by Indenture, and may not well be done by a Verbal Agreement; and the Indenture muſt be either between the Juſtices, Churchwardens, and Overſeers, or them, and the Apprentice on the one part, and him that takes the Apprentice of the other part, as appears by the form of the Indenture in the end of this Chapter; and he muſt be named by the name of Apprentice expreſly, or elſe he is no Apprentice, though he be bound. *Cromp.* 184. *Dalt. J.P.c.* 31.*ſ.*82.

28. And this binding is as effectual to all purpoſes, as if the Children were of full age, and did bind themſelves by Indentures and Covenants; and all ſuch as are bound by the Overſeers, as aboveſaid, may ſafely be received and kept as Apprentices by their Maſters. 1 *Jac.c.*25. 21 *Jac.c.*28. *Dalt. J.P.c.*31.*ſ.*83. 3 *Car.*1.*c.*4. 5 *El.c.*4. *Crompt.* 184 *b.*

29. Note, That money given, to put out poor

Children Apprentices, is to be employed in Corporate Towns by the Corporations, and in other places by the Parſon or Vicar, together with the Conſtables, Churchwardens, and Overſeers of the Poor, or the moſt part of them; who ſhall not forbear or refuſe to employ the ſame accordingly, on pain to forfeit five marks, each of them ſo making default, to be divided betwixt the Poor of the Pariſh and the Proſecutor. 7 *Jac. ch.* 3. *Wingate's Stat. Tit. Poor People.*

30. And the party, taking any money with ſuch Apprentice, ſhall give good ſecurity by Obligation to repay it at the end of ſeven years next enſuing the Date of the ſaid Obligation, or within 3 months after the end of the ſaid 7 years; and if ſuch Apprentice ſhall die within the 7 years, then within 1 year after his or her death; and if the Maſter, Miſtreſs, or Dame, happen to die within the 7 years, then within 1 year after their death: ſo as the mony may be emp'oyed in placing the Apprentice with ſome other of the ſame Trade, to ſerve out his time, at the diſcretion of the parties truſted as aforeſaid. 7 *Jac. c.* 3.

31. And the money ſo given ſhall be imployed within three months after the Receipt thereof, and if there ſhall not be apt perſons found in the places where it is given to the Apprentices, it ſhall then be imployed in the Pariſhes next adjoyning, by the parties that are truſted with it in the place where it was ſo given, and there alſo Bond ſhall be taken, as afore is declared. 7 *Jac. ch.* 3.

32. Note, That if the Maſter ſhall put his Apprentice into apparel, it is a Gift in Law, and he cannot afterwards take it away, though he ſhould part with his Apprentice. *Br. Tranſgr.* 93.

33. An Apprentice cannot be diſcharged from his

his Apprentiſhip, but by 4 Juſtices of the Peace at the leaſt, and in open Seſſions, or elſe by the Agreement of the Maſter and Apprentice, and under his Maſters hand in writing. *Dalt. J. P. ch. 31. ſ. 79.*

34. The Form of theſe Indentures, mentioned before, is as followeth, *viz. This Indenture made the 29 day of* September, *in the 20 year of the Reign of Our moſt Gracious Sovereign Lord* Charles *the Second, by the Grace of God of* England, Scotland, France *and* Ireland, *King, Defender of the Faith,* &c. Anneq; Dom. 1668. *witneſſeth that* J. W. *and* G. R. *Overſeers of the Poor in the Town of* Kirk-Leaventon, *and* J. R. *Churchwarden of the ſame Town, by and with the conſent of Sir* J. P. *Knight and Baronet, and* T. M. *Eſq; two of his Majeſties Juſtices of Peace for the North-Riding of the County of* York, *have by theſe preſents placed and bound* J. T. *(being a poor fatherleſs child) as an Apprentice with* E. H. *of* Kirk-Leaventon *aforeſaid, Widow; and as an Apprentice with her the ſaid* E. H. *to dwell from the day of the date of theſe preſents, until ſhe the ſaid* J. T. *ſhall come to the age of 21 years, or be married, which ſhall firſt happen, according to the Statute in that caſe made and provided; by and during all which time and term the ſaid* J. T. *ſhall the ſaid* E. H. *her Dame well and faithfully ſerve in all ſuch lawful buſineſs as the ſaid* E. H. *ſhall put her the ſaid* J. T. *unto, according to her power, wit, and ability, and honeſtly and obediently in all things ſhall behave her ſelf towards her ſaid Dame and Children, and all the reſt of the Family of the ſaid* E. H. *And the ſaid* E. H. *for her part promiſeth, covenanteth, and agreeth that ſhe the ſaid* E. H. *the aforeſaid* J. T. *in the Art and Skill of Houſewifery the beſt manner that ſhe can, or may, ſhall teach and inform, or cauſe to be taught and informed, as much as thereunto belongeth, and ſhe the ſaid* E. H. *knoweth; and alſo du-*

during all the said Term to find unto her said Apprentice, Meat, Drink, Linnen, Woollen, Hose, Shooes, Washing, and all other things needful or meet for an Apprentice. In Witness whereof, &c.

35. Note, If it be a Boy that is to be bound Apprentice to Husbandry, or any other Trade, then he may be bound till 24 years of Age, as is shewed before in this Chapter.

CHAP. IV.

Several Cases about Settlements, and also touching Bastards, &c.

36. AS touching Setling of Poor People, Note, That the Justices are to meddle with none but those who are impotent, and such as are like to be chargeable to the place where they are. *Boulstr. Rep. 1. part. 347.*

37. And as to this it was enacted by the 14 *Car.* 2. *c.* 12. That if any Stranger come into a Parish to settle there in any Tenement under 10 *l.* a year, and he refuse to give such Security for the discharge of the Parish as two Justices shall think fit; then any two Justices (*Quor. unus*) might upon complaint to them made by the Churchwardens or Overseers within 40 days after the Stranger comes into the Parish, make their Warrant to send him to the place, where he was last legally setled as a Native, Housholder, Sojourner, Apprentice, or Servant 40 days or more; so that by this, it seems to have been the opinion of that Parliament, that no man that rents 10 *l.* a year, or above, is to be accounted such a poor man as to be removed by order of the Justices 14 *Car.* 2. *ch.* 12. But this Statute

tute (as to all but what concerns the Corporations constituted thereby) was to continue no longer than to the end of the first Session of the next Parliament, and so this and several other Branches of it concerning Rogues, Vagabonds, Poor, *&c.* are now expired.

38. Note, That no man but a Vagrant Begger, ought to be sent out of any Parish to the place of his birth or last habitation; for if any refuse to work in the Parish where he is setled, or to work for the wages assessed, then he is by the Justices to be sent to the House of Correction. *Co.2.part.Inst. f.730.7 Jac.c.4. Resol. Judges, 9 Dalt. J.P.c 47.f.126. 39 El.c.4.1 Jac.c.7.*

39. If a Scholar in the University, or in a Grammar-School begin to be suspect, he may be, or if he doth become impotent, and is like to be a charge to the Parish where he is, he must be sent to his Parents if he have any, otherwise to the place where he was last legally setled before he came to School. *Res. Judges 1633. Sect.31.*

40. If one be born, and live 20 years in A. and then go to B. and there live in a house and pay his Rent, and after he come to C. and there works 20 Weeks as a Labourer in a Quarry of Stones, where he breaks his back, and becomes impotent, and there is taken vagrant and begging, in this case he must be sent to A. the place of his birth, and there must be provided for. *Res. Judges, 14 Car.1.*

41. If a man that hath a Wife and Children, take an House in one Parish for a year, and during this time he is illegally forced out of his Possession; then he takes an House as Inmate in another Parish, out of which he is put within two or three days, and then not having any place to be in, he gets into a Barn in the third place, and there his

Wife is delivered of another Child: In this case they are all to be sent to the Parish out of which they were first illegally forced. *Resol. Judges*, 1663. *Sect.* 24.

42. One born in D. left that place for the space of 20 years, then lived in S. took an House and paid Rent, and left that place also 6 or 7 years, and then came to L. in another County, and there was 20 weeks, did work, and there became impotent, and did wander and beg in the same place, and was taken as a Vagrant, and it was ordered he should be passed and setled at D. where he was born, by the Judges at *Worcester* Assises. 14 *Car.* 1. *Boulstr. Rep.* 1. *part. f.* 375.

43. No Child under the Age of 7 years shall be adjudged a Rogue within the *Stat.* 39 *El. ch.* 4. But it seems such Children vagrant and begging must be sent and placed with the Father or Husband of the Wife; and if he be dead, then with the Mother (where she was born, or last dwelt by the space of one year) and such Children, once thus setled or placed, must there remain, and not be sent from thence to their place of birth, though after their Parents dye or run away, or that the said Children grow above the Age of 7 years; yea, though the said Children after beg and prove vagrant in the Town, for there they must be set to labour by the Overseers of the Poor. *Res. Judges*, 4, 9, 10. *Poult. Vag.* 2. *& Dalt. J. P. ch.* 74. *f.* 125.

44. But Children above 7 years of Age, going about vagrant or begging in the Country, shall be punished as Rogues, and sent to their place of birth. *Dalt. J. P. c.* 42 *f.* 125, *& Resol. Judg.* 4. 39 *El. c.* 4.

45. The Wife, being a Vagrant Rogue, must be sent to her Husband, though he be but a Servant in another Town; and where the Husband and Wife have

have an House, (though as an Inmate) and either of them Rogue about, in this case they are to be sent to the place where the house is. *Dalt. J.P. c.* 49. *f.* 125. *Ref. Judges* 3, 27. 5.

46. The Rogue, whose place of birth or last dwelling cannot be known, having Wife and Children under 7 years of age, they must go with the Husband to the place where they were last wilfully suffered to pass through without punishment, where the Children must be relieved by the work of their Parents, though the Parents be committed to the House of Correction; and if the Rogue have Children above 7 years of age, that Rogue about with him, then they are to be sent to the House of Correction also with the Parents, and when they come out again, then to their several places of births. *Dalt. J.P. c.* 97 *f.* 323. and *Shephard's Guide for J.P. pag.* 252. *Ref. Cr.*

47. If I live in a House in *A.* there with my Children, but I work in *B.* where I am hired by the year, in this case my Children shall be in *A.* but if I have an House in *B.* they shall be placed there. *Dalt. J.P. c.* 40 *f.* 99.

48. *A.* being a Wanderer with three Children born in three Parishes comes to *Dale* with them to her Sister, and there dieth shortly after, here the Children must be setled in the several Parishes where they were born, and not in the Parish where the Mother dyed. *Boulstr. Rep.* 2. *part.* 351.

49. No man is to be put out of the Town where he dwelleth and is lawfully setled, nor to be sent to his place of birth, or last habitation; but a Vagrant Rogue, not to be found by the Town, except the party be impotent, but they ought to set themselves to labour, if they be able and can get work; And if they cannot get work, then the Overseers

are

are to set them to work. And if in such case such persons wander abroad begging out of the Parish, then they may be sent as Vagabonds (from the place where they shall be taken wandring or begging) to the place of their birth. *Dalt. J.P.c.*40*f.*99.

50. If a Maid Servant be gotten with Child at *A.* by her Fellow Servant (or by another Man of the same Town) and after both their Services ended they marry, and then the young man is retained at *B.* and afterwards the Woman is delivered of her Child, in this case she with her Child are to be sent to the Father at *B.* and there must be setled. *Dalt. J.P.c.*40*f.*99.

51. If any disturbance be made to any Settlement lawfully ordered by the Justices, either by the Constables refusing to receive and convey a Rogue where they ought to do it, or by the Churchwardens and Overseers of the Poor in refusing such an one as is duly sent to be setled there, in such case they forfeit 5*l.* by the 39 *El.c.*4.

52. If a Woman unmarried be hired Weekly, Monthly, half Yearly, or Yearly, in one Parish, and there be gotten with Child, and then goeth into another Parish, and there is setled in Service, or otherwise for two or three months, and then she is discovered to be with Child, in this case she and her Child shall be setled in the Parish where she then is, and must not be sent to the Parish whence she came. *Resol. Judges* 1633. *Sect.*12.

53. If a Woman be delivered of a Bastard Child in one Parish, and then go into another Parish with her Child, in this case the Child after it is nursed, is to be sent to and setled in the place where it was born, and not to remain with the Mother. *Resol. Judges* 1633. *Sect.*24.

54. If *A.* have a Bastard Child by *B.* born in

Dalt

Dale, 10 years, and the reputed Father marries another Woman, and they breed the Child 10 years in the Parish of *Sale*, and the Mother of the Child is in Service all this while, and a Single Woman, the Reputed Father dies; in this case the Child is to be sent to the Mother first, to be maintained by her if she be able, and if not, it must be kept by the Parish of *Sale*; where it was setled with the Father 10 years. *Bootle's Rep. 2 part. 2. f. 350.*

55. If a Woman have a Bastard Child, and is like to be chargeable to the Parish, and she is sent to the House of Correction for it (as she may be by Law) in this case it hath been questioned whether the Child must go with her, or remain in the Town where it was born, (or setled with the Mother) and there to be relieved by the work of the Mother, or by Relief from the Reputed Father, upon the 18 *Eliz.* and it seems most reasonable to be so, and yet the common opinion and practice is otherwise, (to wit) to send the Child with the Mother to the House of Correction: And this may also seem reasonable where the Child sucketh on the Mother. *Dalt. J. P. ch. 11. fo. 39.*

56. If a Woman with Child be sent to the House of Correction, and there be delivered, the Child must be sent back to the Parish where the Woman came from, there to be relieved. Also if a Woman be travelling, and have her Child with her, and is apprehended and sent to the Goal, and there hanged for Felony, in this case the Child shall not be chargeable to the place where the Goal is, but to the place where he was born (if it can be known) otherwise to the place where the Mother was apprehended; and so was the opinion of Sir *Nicholas Hide* 3 *Car.* I.

57. The two next Justices (*Quor. unus*) in or next to the limits where the Parish Church is, may take

take order as well for the punishment of the Mother and reputed Father of a Bastard Child, as also for the relief of the Parish wherein it is born, by charging the Mother and Father with the payment of money weekly toward the keeping of it, or otherwise: And if the Mother or Father perform not the Justices order therein, they are to suffer imprisonment without Bayl, except he or she give Security to perform, or else to appear at the next Sessions, and abide the order of the Justices there, if any be made there: and if none be made, then to stand to the first order. *Dalt. J. P. chap.* 1. *fo.* 37. & 38. 18 *Eliz. ch.* 3.

58. Note, That this Order may be made by any two Justices of the County (*Quer. unus*) as it is held by some, but most properly by the two next Justices, and the question must be about such a Bastard Child as is like to be a charge to the Parish; and the Security must be given to the Parish where the Child is born, to secure the Parish from the charge of the Child, or to keep the Child: it must be a Parish within the County where the two Justices have power, and the Order must be certain how long the reputed Father must keep the Child, secure the Parish, *&c.* and it must be made against the person that is suspected to have gotten the Bastard Child, and not against another person to contribute towards it, because it was gotten in his house, *&c.* and the Order must express the Child by the name of a Bastard Child, and not the reputed Child of such an one, and the Justices for the better discovery of the matter, may upon oath examine the Mother her self concerning the reputed Father, the time, *&c. Dalt. J. P. ch.* 11. *fo.* 37, 18 *Eliz. ch.* 2. 7 *Jac. ch.* 4. See *Steel's Rep. fo.* 154, 245, 246, 247, 388. and see *Pridgeon's* Case. *Hill.* 9 *Car.* 1.

B.R.

B.R. and *Slater's* Case. *Pasch.* 13 *Car.* 1. *B.R. Cro. Rep.* 1. *part.*

CHAP. V.

The Overseers Office in making of Rates, and passing Accounts.

59. THese Officers, or the greater part of them (for the doing and performing of the things they have in charge) may raise weekly, or otherwise by Taxation of every Parson, Vicar, and other Occupier of Land, House, or Tythes, Colemines, or saleable Underwoods, within the Parish, Town, *&c.* such a sum as they shall think fit; and this Rate they must have allowed and confirmed under the hands of two Justices (*Quor. unus*) and then by Warrant from them, or any other two Justices (*Quor. unus*) they may levy, by distress and sale of the Goods of the party refusing to pay the said Tax, rendring the Overplus to the owners, and in default of distress, two such Justices may commit the party to Prison, there to remain without Bail till it be discharged by him. 43 *El. ch.* 2. *Dalt. J. P. ch.* 4. *fo.* 97. *Wingate's Stat. Tit. Poor People.*

60. Now these Rates ought to be well and truly made, according to mens visible Estates, real and personal, within the place only, and not for any Estate elsewhere; at *Lincoln* Assises 9 *Car.* 1. by Justice *Hutton* and *Crook.*

61. Note, That a Parish in Reputation shall be a Parish within this Law: so that if *A.* be an ancient Parish that hath Officers in it, and there be a Town within this Parish, which for a long time hath been used and reputed as a Parish, and hath all Parochial Rights,

Rights, As Churchwardens, &c. here this place may be rated as a Parish towards the Poor. *Hutton's Rep. fo. 93. & M. 3 Car. B. R. Hilton & Paul's* Case. *Cro. 3. part. Rep.*

62. This Tax must be set upon the Tenants and Occupyers of Lands; and not upon the Land-Lords living within or without the Parish; for the Tenant only is chargeable for the Land. *Bulstred's 1. Part. Rep. fo. 354.*

63. The Parson having a full Tenth Part of the Profits of the Place, may be rated to a Tenth Part. *Resol. Judges, 1683. Sect. 32.*

64. He that doth occupy Lands in his own hands, lying in several Parishes, he must be charged in every Parish for his Land lying therein, only according to the proportion thereof, and no more; but for his personal Estate it seems reasonable he should be charged for it in the place where his person is. All Lands Ancient Demeasn, Guildable, and Copyhold, are to be charged with these Rates, which ought to be according to the value, or by the pound, and not according to the quantity. *Sed consuetudo tollit Legem.*

65. The Rate for Stock or Goods is thought reasonable to be set after the proportion of Lands (*viz.*) an 100 pound in stock to be rated after 5 or 6 pound a year in Land.

66. Note, That in some special cases a man may be rated beyond his ability, as where one brings a charge upon a Parish, or under any pretence brings in a man that may be chargeable in a Parish, he may, if there be cause for this, be raised in his Rate to the full value of his estate; and so was the opinion of Sir *Nicholas Hide. Dalt. J. P. ch. 40. fo. 97.*

67. Where the Inhabitants of any Parish are notable to relieve their Poor, any two Justices

(*Quor.*

(*Quor. unus*) may tax other Pariſhes and places within the Hundred, yea, the whole Hundred, if need require; and where that is not ſufficient, the Juſtices in their Seſſions may tax the County in part, or wholly at their diſcretion. 43 *El. ch.* 2 *Wingate's Abr. Stat. Tit Poor People.* 14 *Car.* 2. *ch.* 12.

68. If any perſons find themſelves agrieved in any Tax or other Act done by the Overſeers, or by the Juſtices of Peace, they are to be relieved at the Quarter Seſſions. *Dalt. J. P. ch.* 40. *fo.* 97. *Wingate's Abr. Stat. Tit. Poor People.*

69. The Father, Grandfather, Mother, Grandmother and Children of every poor perſon, ſhall be aſſeſſed towards their Relief, as the Juſtices of the Peace in their Seſſions of the Peace in the County where ſuch Father, *&c.* dwells, ſhall limit and appoint, on pain to forfeit 20 *s.* a month to the uſe of the Poor, to be levyed by diſtreſs and ſale as aforeſaid, and for want of diſtreſs to be committed to priſon till the Forfeiture be paid. 43 *El. ch.* 2. *Wingate's Abr. Stat. Tit. Poor People. Dalt. J. P. ch* 40. *fo.* 98.

70. Head Officers in Cities and Corporate Towns, and Aldermen of *London*, have in their ſeveral Precincts like Authority that Juſtices of Peace have in their Counties, and no other Juſtices of Peace are to enter and intermeddle there. *Wingate's Abr. Stat. Tit. Poor People.* 43 *El. ch.* 2.

71. If any Pariſh ſhall extend into two Counties, or part thereof to lie in any City or Corporate Town where they have Juſtices: Then the Juſtices of every County, *&c.* are to intermeddle only within their own limits; and every of them reſpectively within their limits are to execute this Law concerning the nomination of overſeers, binding of Apprentices, granting Warrants to levy Taxations

actions, taking Accounts of Overseers, and committing such as refuse to account or to pay their Arrearages; and yet the Overseers shall without dividing themselves, execute their Office in all places within the said Parish, but shall give up Accounts to the Justices or Head Officers of both places. *Wingate's Abr. Stat. Tit. Poor People.* 43 *El. ch.* 2. *Dalt. J. P. ch.* 40. *fo.* 97, 98.

72. These Officers within four days after the end of their year (and that other Officers are nominated) are to yield up a true account to two Justices (*Quor. unus*) of these things following, 1. What sums of Money they have received or rated, and not received? 2. What stock of Ware or Stuff is in their hands, or in the hands of any of the Poor? 3. What Apprentices they have put out, and bound according to the Statute? 4. What Poor they have set to work or relieved? 5. What Poor they have suffered to wander and beg out of their Town, or in the Highways, or in their Town without their directions? 6. Whether they meet monthly to consider of the things belonging to their Office? 7. Whether they made their Rates indifferent upon all men, according to their ability? 8. Whether they have endeavoured to gather and levy such Assessments? 9. Whether they have neglected the Justices Warrants to them, or any of them directed for the levying of any forfeiture according to the Stat. 43 *El. ch* 2. *Dalt. J. P. ch.* 40. *fo.* 96.

73. Note, That by the Statute of 30 *Car.* 2. of Burying in Woollen, the Justices are not to allow the Accounts of the Overseers of the Poor, until they have given them an Account of the Burials and Certificates, and of their levying the Penalties in pursuance of that Act 30 *Car.* 2 *ch.* 3.

74. Now

74. Now if the Churchwardens or Overſeers or any of them, ſhall refuſe to make and yield a true and perfect Account to the ſaid Juſtices, of all ſuch money and of all ſuch ſtock as aforeſaid, any two Juſtices (*Quor. unus*) may commit them to the common Goal, there to remain without Bayl, till they have made a true account, and ſatisfied and paid to the new Overſeers ſo much of the ſaid ſum or ſtock, as upon the ſaid account ſhall be remaining in his or their hands, *&c.* And if they make a falſe account, they may be bound over to the Aſſizes or Seſſions, and there an Indictment may be preferred againſt them. *Dalt. J. P. ch. 40. fo. 96.*

75. Alſo if any of the Churchwardens or Overſeers ſhall refuſe, or deny to pay or deliver over to the new Overſeers the Arrearages (ſums of Money or Stock) which ſhall be in their hands, and due and behind upon their Account to be made as aforeſaid, any two ſuch Juſtices of Peace may make their Warrant to the preſent and ſubſequent Churchwardens and Overſeers, or any of them, to levy the ſame by diſtreſs and ſale of the Offenders Goods, rendring to the parties the Overplus, and in default of ſuch diſtreſs, any two Juſtices of the Peace may commit him or them to the Common Goal, there to remain without Bayl, until payment or delivery of the ſaid Sum, Arrearages, and Stock be made. 42 *El. ch. 2. Dalt. J. P. ch. 40. fo. 96.*

76. If any ſuch ſtock ſhall be in the hands of any of the Poor to work, and ſuch Poor ſhall refuſe to deliver the ſame, two ſuch Juſtices may make the like Warrant, to levy the ſame by diſtreſs, and for lack thereof may commit ſuch Offenders to the Goal as aforeſaid. *Dalt. J. P. ch. 40. fo. 96.*

77. And for theſe aforeſaid, and all other Negligencies of the Churchwardens and Overſeers, in

the

the Execution of their Office, about the Poor, *&c.* every of them for every default he makes forfeits 20 *s.* which Default muſt be proved either by the Offenders own Confeſſion, or by Examination of Witneſſes, and it is to be levyed by the new Churchwardens and Overſeers, or one of them, by Warrant from two Juſtices, as aforeſaid, by diſtreſs and ſale of the Offenders Goods: and for want of Diſtreſs, two ſuch Juſtices may commit Offenders to the Goal, there to remain without Bail, till the ſaid Forfeitures ſhall be paid; which ſaid Forfeitures are to be imployed to the uſe of the Poor of the ſame Pariſh. *Dalt. J. P. ch.* 40. *fo.* 97. 43 *Eliz. b.* 2.

CHAP. VI.

The Overſeers Duty about Burying in Woollen.

78. NO Corps ſhall be buried in any thing other than what is made of Sheeps Wooll only, or be put into any Coffin lined or faced with any thing made of any material but Sheeps Wool, on pain of the Forfeiture of five pounds, 30 *Car.* 2. *ch.* 3,

79. An Affidavit under the hands and ſeals of two Witneſſes (or under the Hand of the Magiſtrate or Officer before whom it was ſworn, for which nothing ſhall be paid) muſt be brought to the Miniſter within eight days after the Party is interred, that he was not buried contrary to this Act which ſhall be taken before ſome Juſtice of Peace, Maſter of Chancery Ordinary or Extraordinary, Mayor, Bayliff, or other chief Officer of the City, County, Burrough, *&c.* where the Party was

was buried: And if no ſuch Affidavit be brought, the Miniſter ſhall give notice thereof under his hand to the Churchwardens or Overſeers of the Poor, who within eight days after ſhall repair to the Chief Magiſtrate in any Town, *&c.* if buried there, elſe to a Juſtice of Peace, who upon Certificate thereof from the Miniſter, *&c.* ſhall grant a Warrant for levying the Forfeiture by diſtreſs and ſale of the Goods of the Party deceaſed, or in default thereof, of the Perſons goods in whoſe houſe the Party died, or the goods of any that had a hand in putting ſuch Party into any Shroud, Coffin, *&c.* contrary to this Act, or that ordered the ſame: And if ſuch perſon were a Servant, and died in the Maſters Family, the Maſters Goods to be lyable: And if ſuch Perſon died in his Parents Family, the Parents Goods to be lyable: One moiety of which Forfeiture ſhall be to the Poor of the Pariſh where the Party is buried, the other to him that will ſue for the ſame. 30 *Car.* 2. *ch.* 3.

80. Miniſters, Churchwardens, & Overſeers, Juſtices of Peace, or Chief Magiſtrates, neglecting their Duty aforeſaid, ſhall forfeit five pounds for every Offence, to be recovered by Action of Debt, Bill, Plaint, *&c.* wherein the Proſecutor ſhall recover his full Coſts, ſo as the Suit be commenced within ſix months after the Offence committed: One fourth part of the Forfeitures to the King; two fourth parts to the Poor of the Pariſh where the Offender dwells, and one fourth part to the Informer. 30 *Car.* 2. *ch.* 3.

81. Every Miniſter ſhall keep a Regiſter of all Burials and Affidavits: And where no Affidavit is brought as aforeſaid, ſhall enter a Memorial thereof againſt the name of the party Interred, and of the time when he notified the ſame to the Church-

Churchwardens or Overſeers of the Poor. And the Overſeers when they give up their Accounts at the Seſſions, or to any two Juſtices at their monthly Meetings, ſhall give an account of the Name and Quality of every Perſon interred ſince their former Account; and of ſuch Certificates, and of their levying the Penalties, and of their diſpoſal thereof, on pain of five pounds to be levyed by diſtreſs and ſale of Goods, by Warrant from the ſaid Juſtices, or two of them: and their Accounts ſhall not be allowed till they have accounted for the Burials. 30 *Car.2.ch.*3.

82. No Penalty ſhall be incurred where the party died of the Plague; If any perſon be proſecuted, for what he ſhall do in purſuance to this Act, he may plead the general Iſſue, and give this Act in evidence: And upon a *Nonſuit*, Diſcontinuance or Verdict for him, or Judgment upon a Demurrer, he ſhall have treble Coſts. 30 *Car.2.ch.*3.

83. And now by the Statute of 32 *Car.2.* (where no Juſtice of Peace ſhall reſide or be to be found in any Pariſh where any Party ſhall be Interred) ſuch Oaths or Affidavits may be adminiſtred, not only by ſuch Magiſtrates as aforeſaid, but by any Parſon, Vicar, or Curate in the ſame County, other than of the Pariſh or Chappel of Eaſe where the Party is Interred; and they are to atteſt the ſame under their hands gratis. 32 *Car.2.ch.*1.

The Overſeers Duty about *Iriſh* Cattel, See *Conſtables Guide*, ch. 6.

Their Duty in ſuppreſſing Conventicles, See *Conſtables Guide*, ch. 8.

84. Note, That the Overſeers of the Poor, are to receive for the uſe of the Poor of the Pariſh where the Offence is committed, of ſuch who kill or take in the night time any Conies upon the borders

ders of Warrens, or other grounds lawfully uſed for keeping of Conies, except Owners, *&c.* or perſons by them imployed, and of ſuch who uſe Snares, Harepipes, or other like Engines, or who take any Fiſh by any Net, Angle, or other Device whatſoeven in any water or River, or ſhall be aſſiſting thereunto, without conſent of the Lord or Owner of the ſaid Water, what Sum the Juſtice of Peace before whom ſuch Offender ſhall be convicted, ſhall think meet, not exceeding ten ſhillings; which he is to pay over and above recompence to the Owner:) And in default of payment thereof, he that takes or kills ſuch Conies, or uſeth Snares, *&c.* ſhall be committed to the Houſe of Correction for any time not exceeding one month: And the goods of him that takes ſuch Fiſh ſhall be lyable to diſtreſs; and for want of a Diſtreſs, he ſhall be committed to the Houſe of Correction for any time not exceeding one month, unleſs he enter into bond with one or more Sureties to the Party injured, not exceeding ten pounds, never to offend in like manner. 22 *&* 23 *Car.*2. *ch.*25.

A GUIDE for Surveyors of High-ways and Bridges.

CHAH. I.

Of the Choice of these Officers, how many Sorts of ways there are, with some few General Cases concerning Highways.

1. THese Supervisors or Surveyors of the Highways are Officers yearly chosen by the Constables and Churchwardens of every Parish.

2. And after Choice made of these Officers, as aforesaid, and notice given them, they are forthwith to take the Office upon them, on pain to forfeit 20 *s.* 2, 3. *P. M. ch.* 8. *Wingate's Abr. Stat. tit. High-ways.*

3. The Constables and Churchwardens are then also to appoint six days betwixt then and Midsummer, to be set apart for the amendment of Highways, and must give publick notice thereof in the Church the next Sunday after *Easter.* 5 *El. ch.* 13. 23 P. *M. ch.* 8. *Wingate's Abr. Stat. Tit. Highways.*

4. Note, That there are three kind of Ways, (to wit) first a Foot-way, called *Iter quod est jus eundi, vel ambulandi hominis.* Secondly, a Foot-way and an Horse-way, called *actus ab agendo,* and this vulgarly is called a Pack or Drift-way, and is both Foot-way and Horse-way. Thirdly, a Cart-way, *&c.* called *Via* or *Aditus,* (and this containeth the other two, and a Cart-way also) for this is *jus eundi, vehendi, & vehiculum & jumentum ducendi;*

ducendi; and this is two-fold, to wit, *Via Regia*, the Kings High-way for all men, *& communis Strata*, belonging to a City or Town, or between Neighbours. *Dalt. J.P.ch.26.fo.67.*

5. Note, That the Kings High-way (or *Via Regia*) leading either to the Market, or from Town to Town, the Freehold and Soil thereof, and the intereſt of all Trees, and other ſuch Profits thereupon growing, do belong to the Lord of the Soil, or the Lord of the Mannor, and therefore ſuch Lords are chargeable to cut down the Trees and Buſhes growing in ſuch High-ways; and it is called the Kings High-way, for that the King at all times hath therein Paſſage for Himſelf and his People, & may puniſh all Nuſances therein, though otherwiſe the Intereſt be in the Lord to bring his action for digging therein, or other like Treſpaſs there done. *Dalt. J.P.ch.26.fo.68.* and ſee *Rolls* Caſes, 1.*part. fo.* 392.2 *E.*4.9.8 *E.*4 9.17 *E.*3.*fo.*43. *Bro. Chemine*, 10, 11. *& Leet.*3.27 *H.*6.*fo.*9.8 *H.*7.*fo.*5.

6. Generally the owner of the Soil on both ſides of the way ſhall have the Trees growing in the way: But the Lord of a Rape, within which there are ten Mannors, may preſcribe to have all the Trees growing within any High-way within ſuch Rape, although the Mannor or Soil adjoyning belong to another perſon, for the uſage and taking of the Trees is a good badge of Ownerſhip. P.11. *Jac. B.R.* between Sir *Tho. Pelham, & Wiat, & Blake, Rols Caſes.* 1.*part.fo.*392.

7. Where any perſon ſhall incloſe any part of the High-way, ſuch Perſon ſhall be charged to amend the High-way next adjoyning to the ſaid Incloſure. And if one man have incloſed on one ſide, and another man on the other ſide, they ſhall be both charged to mend the ſame way. *Dalt. J.P.ch.*

26. fo. 69. and ſee *Tr. 10. Car. 1. B. R.* Sir *Edward Duncomb's* Caſe, *Cro. 3. Part Rep. & 6 Jac. & 19 Jac.* ſo Reſolved. *Rolls Caſes 1. part fo. 390.*

8. But otherwiſe generally High ways muſt be ſufficiently amended at the charge of the whole Town: And it is not enough for the Inhabitants to do their full Six days work yearly; except their ways be all well and ſufficiently repaired thereby: For if all their ſaid ways be not ſufficiently amended, the whole Town may be indicted therefore: and if Six days work in the year will not ſerve to amend them, the Surveyors may, yea, muſt appoint more days. *Dalt. J. P. ch. 26. fo. 69.*

9. The Owner of Lands, if he be not the occupier thereof, ought not to be charged towards the repair of the common High-ways; but the Tenant who occupies the Lands is to be charged. *Hill. 11. Car. 1. Br.* in one *Foſter's* Caſe, *per Curiam. Rolls Caſes. 1. part fo. 390.*

CHAP. II.

The Duty of the Surveyors about Setting and Calling the Pariſhioners to the Common days Works for the High-ways, and about taking and digging for Gravel, Chalk, Sand, &c. See fol. 58, 59.

10. THeſe Officers are to ſee that the Pariſhioners do their work on the days appointed, and that according to theſe Rules following, *viz.* Every perſon having in his own Occupation a Plough Land in Tillage or in Paſture in the ſame Pariſh, or keeping there a Plough or Draught, ſhall find and ſend on every day to the place appointed by the Surveyors, one Wain or Cart provided, after the Faſhion of the Country, with Oxen, *&c.* fit for the carriage, and with neceſſary Tools fit for the

the work, and with two able men, who are there to do such work with their Wains, *&c.* as they shall be appointed (by the Surveyors) by the space of eight hours every of the said six days, on pain of 10 *s.* every day default is made, 2,4 *P. M. ch.*8. *Rastall.* 199. *Lamb.* 459. *Wingate's Abr. Stat. Tit. High-ways, Dalt. J. P. ch.*26. *fo.*68.

11. And every other Housholder, Cottager, and Labourer of the Parish, Town, *&c.* (able to labour and being no hired Servant by the year) must by himself, or some other able man, be then and there ready to work every of the said six days, by the space of eight hours, as aforesaid, where they shall be appointed by the Surveyors, under pain to forfeit 12 *d.* for every day they make default, 2,3 *P. M. ch.*8.

12. Note, That all persons being chargeable but as Cottagers by the 2, & 3 *P. M.* yet if they be in Subsidy 5 *l.* in Goods, or 40 *s.* in Lands, or above, they must find two able men to work every of the said six days. 18 *El. ch.*10. *Wingate's Abr. Stat. Tit. High-ways. Dalt. J. P. ch.*29. *fo.*68.

12. If any of the Carriages shall not be thoughe needful by the said Surveyors upon any of the said days, they may appoint instead of a Team, two able men to work, as aforesaid, who shal not fail on pain that the party that should send them shall forfeit 12 pence for every day that either of them make default. *Wingate's Abr. Stat. Tit. High-ways.* 2, 3 *P. M. ch.*8. *Dalt. J. P. ch.*26. *fo.*68.

13. He that shall occupy a Plow-land in Tillage or Pasture, lying in several Parishes, shall be chargable only in the Parish where he dwelleth; and he that occupieth several Plow-lands in several Parishes, shall be charged in each Town or Parish where such land lyeth (to wit) to find in each

Town or Pariſh one Cart furniſhed as aforeſaid, though he be no Inhabitant there. 18 *El.ch.* 10. *Dalt. J.P.ch.* 26. *fo.* 68.

14. Now for the further opening of theſe things, note, That it is ſaid that a Plow-land is not of any certain content, but ordinarily it is ſo much as one Plough may Plough in one day, which in ſome Countries is more, and in ſome leſs, according to the heavineſs of the Soil. *Co.* 9 *Rep. f.* 124. *Co.* on *Lit ſo* 69. *& vide Lamb. ver. Hide.* 35 *H.* 6. *fo.* 29.

15. And note, That a Plow-land or Carve of Land may contain Houſe, Meadow, Paſture, and Wood: And if one have ſo much of this as will keep a Plough and yield Tillage for it, if part of it were eared in this caſe, it ſeems he is to ſend his Plough. *Vide Co.* 4. *Lib. Rep. fo.* 37. *b. & 9. Rep. fo.* 122.

16. He that hath a Plough Land, and no Plough, but doth ſuffer his Land to lie freſh, yet he is to find a Plough for this work; and ſo it hath been agreed by the Judges. *Mich.* 21 *Jac. Dalt. J.P. ch.* 26. *fo.* 72.

17. He that keepeth a Plough or Draught for carriage, although he occupieth little or no Land, but carrieth or plougheth for other men, yet it ſeems he is to ſend his Cart to the High-ways; and if a man keep only two Horſes and a Cart for his own buſineſs, in this caſe it ſeems he is to come with his Cart and two Horſes with a man to manage them. *Vide Dalt. J.P. ch.* 26. *fo.* 72.

18. It is held by ſome, that ſo many Ploughs or Draughts men have, and uſe frequently about their own buſineſs in Summer, ſo many they are to bring with them to the High-ways; ſo that if a man have one Plough and five or ſix Horſes, and ſhall plough ſeven or eight ſcore Acres of Land, and ſhall uſually go in the Summer time with two Carts

or

or Draughts; in this case, it seems he is to come with two Carts or Draughts to this Service: And he that occupieth 40 or 50 Acres of Land, and keepeth only three Horses, and one Draught or Cart, he is to come with one Draught or Cart. *Vid. Dalt. J. P. ch. 26. fo. 22.*

19. These Officers may, if they see cause, for the amendment of the High-ways, take and carry away so much of the Rubbish, and smallest broken stones already digged, of any mans Quarry lying within the same Parish without leave of the Owner, as they shall think needful, or gather the loose stones lying dispersed in any mans grounds; but they may not without Licence dig in any mans Quarry for new Stones, nor take the great Stones already digged; and if there be no such Rubbish to be found in any mans Quarry within the said Parish, then may they enter into any mans several ground within the Parish, lying near the place where the ways are decayed, and there (if they see any hopes hopes of finding materials fit for the Reparation thereof) without leave of the Owner, they may dig for Sand, Stones, Gravel, *&c.* so that it be not in the Houses, Gardens, Orchards, or Meadows of any man; for they are not to come there without Licence of the Owner; and in such place where they may dig without leave, they are not to make a Pit above ten yards in breadth or length, and they are to take care that the place be filled up again at the charge of the Parish within one one month after, upon pain to forfeit five Marks to the owner of the Ground, to be recovered by Action of Debt; and this is by the 5 *El. c.* 13.

CHAP. III.

The Surveyors Duty about cutting down Bushes, Trees, and Scouring of Ditches in the High-ways; and also touching Presentments and Inquiries about Defaults, passing of Accounts, Travelling of Wagons, Wayns, &c.

20. IF the Owners of the Grounds next adjoyning to the High-ways do not keep their Hedges low, and cut down their Trees and Bushes growing in the same way, they forfeit ten shillings. *Wingate's Abr. Stat. Tit. High-ways. 5 El. ch. 13. 18 El. ch. 10.*

21. And he that scours not his Ditches in the ground next adjoyning to the ground that is next the Highway, to the end the water may have the better passage out of the High-way, shall forfeit 12 pence for every Rod so left unscoured. 18 *E. c.* 10. *Wingate ut supra.*

2. If any scour his Ditch by the High-way side, and throw the scouring thereof into the High-way, and suffer it to lie there six months, he forfeits for every load thereof 12 pence; and the Surveyors are to make Sluces where such banks have been heretofore made, for carrying away the water out of the High-way. 18 *El. c.* 10.

23. Every Surveyor may cause any water-course, or Spring of Water in the High-way, (within their Parish) to be turned into another mans several Ditch or Ground next adjoyning to the said way, in such manner as by the discretion of the said Surveyor shall be thought meet. *Dalt. J. P. c. 26. f. 70.*

24. Note, That the Forfeitures of the Act of the 18 *El.* 10. must be levyed by the Surveyors for the time being, (by Warrant from the Justices before whom the party shall be convict) by Distress

ſtreſs and Sale of Goods; which forfeitures are to be employed towards the amendment of the High ways; and if the Surveyors neglect to do it within one year after the Offence committed, then the Conſtables and Churchwardens by like Warrant may do it. 18 *El. ch.* 10. *Wingate's Abr. Stat. Tit. High-ways.*

25. The Surveyors or one of them are to preſent to the next Juſtice of Peace every default upon the 2, & 3 *P. & M. c.* 8. & 5 *El. c.* 13. within one month after it ſhall be made, on pain of 40 *s.* and the Juſtice is on pain of 5 *l.* to certifie the ſame at the next Quarter Seſſions, where the Juſtices have power to inquire of the Default, and ſhall ſet ſuch Fine upon the Delinquents, as they or two of them (*Quor. unus*) ſhall think fit. 5 *El. c.* 13. *Dalt. J. P. c.* 16 *f.* 70.

26. Note, That the Preſentment of a Juſtice of Peace in Seſſions, upon his own knowledge, ſhall be a good Conviction, whereupon the Juſtices in Seſſions, or any two of them (*Quor. unus*) may aſſeſs a Fine, as well as upon a Verdict of Twelve men; but in this caſe the Delinquent ſhall be admitted to his Traverſe as in other caſes, 5 *El. c.* 13 *vid. Raſtall.* 199.

27. The Defaults and Offences upon theſe *Stat.* 2, & 3 *P. M.* 5 *El.* & 18 *El.* are inquirable by the Juſtices of Peace in their Seſſions, or by Stewards in Leets, either of which have power to ſet Fines upon Offenders at their diſcretions; of which Fines Indented Eſtreats (in the Seſſions under the hand and ſeal of the Clerk of the Peace, in the Leet under the hand and ſeal of the Steward) ſhall be delivered within ſix weeks after *Michaelmas*, one part of the Eſtreat to the Bayliff or High-Conſtable of the Liberty, and the other part to the Conſtables and Churchwardens of the Pariſh where the

Offenders live. 2,3 *P.M.ch.* 8. 5 *El.ch.* 13. 18 *El.c.*10. *Wingate's Abr.Stat.Tit.High-ways.*

28. And theſe Eſtreats ſhall be a ſufficient Warrant for the Bayliff or Chief Conſtable of the Liberty to levy the ſaid Offences by way of diſtreſs; and if no diſtreſs can be found, or the party do not pay the fine within 20 days after lawful demand thereof, he or they ſhall forfeit double ſo much; all which Fines and Forfeitures are to be employed and beſtowed towards the amendment of the High-ways in the Pariſh where the Offences are committed. *Wingate's Abr.Stat.Tit.High-ways*, 2,3 *P.M. ch.*8.

29. The Bayliff, or High Conſtable, ſhall yearly betwixt the firſt of *March* and laſt of *April*, render an Account unto the Conſtables and Churchwardens, who have the other parts of the Eſtreats of the Fines, of what money they have received, on pain of 40 *s.* and the ſaid Conſtables and Churchwardens have power to call the Bayliff or High-Conſtable before two or more Juſtices of the Peace (*Quor. unus*) to paſs his Account, who have power to commit him, until he have ſatisfied all the Arrearages by him received, ſave 8 *d.* in the pound for his own Fee, and 12 *d.* in the pound for the Clerk of the Peace, or Steward of the Leet, and in this caſe the ſucceeding Conſtables and Churchwardens have the ſame Power as their Predeceſſors had. 2,3 *P.M.c.*8.

30. Two Juſtices of the Peace by the *Stat.* 18 *El.* may take Accounts of the Surveyors of the ways, and the Petty Conſtables and Church wardens, for ſuch Forfeitures (within that Statute) as they have levyed. 18 *El c.*10. *Dalt J.P.c.*26. *f.*71.

31. Note, That the Stat. 14 *Car.*2 *c.*6. about High-ways, is expired: For the ſame was made to con-

continue but till the end of the first Session of the next Parliament.

32. Note, There are several Statutes which concern particular High-ways, in which these Surveyors are little concerned; I shall therefore only name the Statutes, and they who desire to be further informed therein, may look the Statutes at large.

33. *Stat.* 39 *El. c.* 19. for repairing the High-ways in the Wild of *Sussex*, *Surrey*, and *Kent*, used for Iron Works. *Stat.* 37 *H.*8.*c.*3. For *Huntington Lane* near to *Chester*. *Stat.* 14 *H.*8.*c* 6. *&* 26 *H.*8.*c.*7. For laying out new High-ways in the Wild of *Kent* or *Sussex*. *Stat.* 1 *M. Par.*2.*c.*5. for the Cawsway between *Dorchester* and *Sherborn*. *Stat.* 18 *El.c.*10. about the Kings Ferry in *Kent*.

CHAP. IV.

Some Heads of the Stat. 22, *&* 23 *Car.* 2. *ch.*17. *concerning the ways, Sewers, Pavements,* &c. *in* London, *and the Scavengers Office.*

34. BY the Stat. of 22, *&* 23 *Car.* 2. A Clause in a late Act of Parliament, Entituled, *An Act for rebuilding the City of* London; wherein was Enacted, That the Numbers and Places for Common Sewers, Drains, and Vaults, and the manner of Paving and pitching Streets and Lanes in the said City and Liberties, should be set out by Persons appointed by the Mayor, Aldermen, and Common-Council, or seven or more of them, together with the Surveyors or one of them within their Precincts respectively, which Persons, or seven or more of them were impowred to impose Taxes upon Houses in proportion to the benefit they receive thereby, and to levy the same by distress and

Sale of Goods, is made perpetual, together with the Powers thereby given and appointed to be executed: And the ſole Powers of ordering and regulating the keeping clear, pitching, and paving the Streets, Lanes, and Paſſages, with the manner thereof, and of making and cleanſing Drains and Sewers in *London* is to remain in the Mayor, Commonalty, and Citizens, to be executed by ſuch as the Mayor, Aldermen and Commons in Common-Councel ſhall appoint, or ſeven or more of them, being all Members of the ſaid Court. And perſons imployed in any of the ſaid Works are enjoyned to obſerve the directions of the Perſons in that behalf authorized. 22, & 23 *Car.* 2. *c.* 17.

35. Offenders may be proceeded againſt by Indictment at the next Seſſions of the Peace for the ſaid City and Liberties, unleſs they ſubmit to the Cenſure of the perſons ſo authorized, or any ſeven or more of them, and pay the Mulct by them impoſed to the Chamber of *London*, to be imployed towards the Works in this Act mentioned. 22, & 23 *Car.* 2. *c.* 17.

36. The Perſons ſo authorized may impoſe Taxes on the ſeveral Wards and Precincts, and direct Precepts to the reſpective Deputies and Common-Councel-Men to aſſeſs the ſame and like Precepts to Scavengers to collect the ſame: And where any Church or Churchyard ſhall front or adjoyn to any of the ſaid Streets, Lanes, or Paſſages, they may aſſeſs a reaſonable proportion upon the Pariſh to be paid by the Churchwardens, of which Aſſeſſments the Deputies and Common-Councel-Men ſhall return Duplicates with the Scavengers names, within twenty days after receipt of the Precepts. And in default of the ſaid Deputies and Common-Councel-Men the ſaid perſons to be

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authorized may rate the ſaid Aſſeſments. And in default of payment within ſix days after demand, the Scavengers may levy the ſame by diſtreſs and ſale of Goods, rendring the overplus, beſides the reaſonable charge of diſtreining: And the money ſo collected ſhall be paid into the Chamber of *London*, not to be iſſued thence, but by order of the ſaid perſons ſo to be appointed, or ſeven or more of them. 22, & 23 *Car.* 2. *c.* 17.

37. Inhabitants aggrieved through defect or decay of Pavements, or want of cleanſing the Streets, *&c.* ſhall upon proof that ſuch grievance is unreformed, receive directions from the Perſons ſo to be authorized, or ſeven or more of them, for redreſſing the ſame, and a Warrant under their hands and ſeals to the Chamberlain of *London* to iſſue Moneys for defraying the charge thereof, together with any Sum not exceeding ten ſhilling; for encouragement of his or their diligence, who upon receipt of ſuch Warrant ſhall pay the ſame accordingly: And perſons aggrieved by any charge impoſed by virtue of this Act, within five days after demand thereof, may appeal to the Mayor and Court of Aldermen, whoſe Order therein ſhall be final. 22, & 23 *Car.* 2. *c.* 17.

38. The Mayor, Aldermen, and Commons in Common-Councel may ſet out & purchaſe ground for Layſtalls, and places for publick ſtores, for receipt of Dirt and Rubbiſh carried out of the City, and for other Materials and Commodities. The Money for the ſame to be paid out of the Moneys ariſing by the Impoſition upon Coals appointed for publick uſes of the City, other than the Money appointed for building Churches. 22, & 23 *Car.* 2. *c.* 17.

29. No perſons by this Act made lyable to be rated

rated towards the altering, mending, or cleanſing the ſaid Vaults, Sewers, *&c.* or cleanſing, *&c.* Streets, Lanes, *&c.* ſhall be otherwiſe charged or lyable thereunto. 22, *&* 23 *Car.*2.*c.*17.

40. Note, That the *Stat.* of 14 *Car.*2. *c.*2. about the Ways, Sewers, and Pavements in *London* is expired, for the ſame was to continue no longer than till the end of the firſt Seſſion of the next Parliament.

CHAP. V.

Several Caſes about the Repairs of Bridges, with the Names of the Statutes which concern particular Bridges.

41. WHere a Common Bridge in the Kings High-way is in decay, and that it cannot be proved or known, who, nor what Lands are chargeable to the repairing thereof; in this caſe four Juſtices of the Peace (whereof one to be of the *Quorum*) within the Shire or Riding wherein ſuch decayed Bridges be, and if they be in a City or Town Corporate, then four ſuch Juſtices of Peace there, may, within the limits of their ſeveral Commiſſions, call before them the Conſtables, or two of the moſt honeſt Inhabitants of every Town and Pariſh within the Shire, Riding, City or Town Corporate, wherein ſuch Bridge or any parcel thereof ſhall happen to be; and the Juſtices (upon the appearance of the Conſtables or other Inhabitants, and with their aſſents) may tax every Inhabitant in any ſuch City, Town, or Pariſh within their limits, to ſuch reaſonable ſum of money as by their diſcretions they ſhall think convenient, as well for the repairing of ſuch Bridge, and alſo for the making and repairing of the High-ways by the

the ſpace of 300 foot next adjoyning to the ends of any ſuch Bridge. 22 *H.*8.*c.*5. *Dalt. J.P.c.*13.*f.*40. *Co.*2.*part. Inſt.fo.*701,702.

42. But note, where the Franchiſe, City or Burrough is a County of it ſelf, and hath not four or more Juſtices of the Peace, whereof one or more are of the *Quorum*, in this caſe no other Juſtices of the Peace of any Shire or County have any Power to meddle there by this Act, but ſuch decay muſt be reformed by the Common Law by ſuch Remedy, as they were before the making of the *Stat.* of 22 *H.*8.*Co.*2.*part.Inſt.fo.*702.

43. And note, That this Taxation ought not to be made by the Juſtices without the conſent of the Conſtables or Inhabitants, nor by them without the Juſtices; and this Tax ought to be upon every Inhabitant in particular, and not to be ſet upon the Hundred, Pariſh, Town, *&c.* for then one or few might be diſtrained upon for the whole. *Co.*2. *part.Inſt.f.*704.

44. After ſuch Taxation made as aforeſaid, the ſaid Juſtices of Peace ſhall cauſe the Names and Sums of every particular perſon ſo by them Taxed, to be written in a Roll indented in Parchment for every Hundred, and ſealed with their Seals. *Co.* 2 *part.Inſt.f.*704. *Dalt. J. P.c.*13.*f.*40.

45. And the ſaid Juſtices may make two Collectors of every Hundred, for the Collecting of all ſuch Sums of Money, by the ſaid Juſtices ſet and taxed, which Collectors receiving the one part of the Roll indented, have power thereby to collect all the Sums of Money therein contained, and if refuſal be made upon demand, then to diſtrain and ſell ſuch diſtreſs, rendring the overplus to the Owner if any be. *Dalt. J.P.c.*13.*f.*40. 22 *H.*8.*c.*5. *Co.*2. *part.Inſt.f.*705.

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46. The ſaid Juſtices alſo are to appoint two Surveyors, who ſhall ſee ſuch decayed Bridges and ways repaired and amended from time to time as often as need ſhall require, to whoſe hands the Collectors muſt pay the Moneys by them received. *Dalt. J. P. c.* 13. *f.* 40. 22 *H.* 8. *c.* 5.

47. And the ſaid Collectors and Surveyors, and their Executors and Adminiſtrators, and every of them ſhall from time to time make a true Account to the ſaid Juſtices of Peace, of the Receipts, Payments, and Expences of the ſaid Sums of Money, and if any of them refuſe ſo to do, then the ſaid Juſtices of Peace from time to time by their diſcretions, may make out Proceſs againſt the ſaid Collectors and Surveyors, their Executors and Adminiſtrators by Attachment, Precept, or Warrant, under their Hands and Seals returnable at their General Seſſions of the Peace, and the ſaid Juſtices may allow ſuch reaſonable Coſts and Charges to the Surveyors and Collectors upon their Accounts as to them ſhall ſeem convenient. 22 *H.* 8. *c.* 5. *Dalt. J. P. c.* 13. *f.* 40.

48. If any ſuch Bridge be wholly in a City, or other Corporate Town, the Inhabitants of the ſaid City or Corporate Town muſt repair it; and where ſuch Bridge lies out of ſuch City or Corporate Town, the ſame muſt be made by the Inhabitants of the Shire or Riding within which the ſame Bridge ſhall be, and if part of the Bridge be in one Shire or Riding, City or Corporate Town, and part in another, then every of them ſhall be charged to make and repair ſuch part as ſhall lye and be within their own limits. 22 *H.* 8. *c.* 5. *Co.* 2. *part. Inſt. f.* 207. *Dalt. J. P. c.* 13. *f.* 41.

49. But otherwiſe no Village or Freeman ſhall be compelled to make any Bridge; but ſuch as of old

old time, and by Right they were wont to make. *Magna Charta c.* 15.

50. By the Common Law ſome perſons were bound to repair Bridges, *Ratione tenuræ ſuæ Terrarum*, &c. and this was binding into whoſe hands ſoever the eſtate did come; but they which have lands on the one ſide, or on the other, or on both, are not bound in Common Right to repair the ſame. 44 *El.* 3. 31. 21 *E.* 4. 46. 5 *H.* 7. 3. *Crompt* 186. 8 *H.* 7 5. *b. C.* 2. *part. Inſt. f.* 700.

51. If a man, which holdeth 100 Acres of Land, ought to repair a Bridge by tenure of the ſame, do alien 20 Acres thereof to one man, and 10 Acres to another man, in ſuch caſe every owner or occupier of ſuch Lands muſt be charged proportionably for their ſaid Lands. *Regiſt.* 268. *a. F. N. B.* 235. *E. Co.* 2. *part. Inſt. f.* 700.

52. Again, ſome by the Common Law were bound by preſcription to repair a Bridge, but herein there is a diverſity between Bodies Politick or Corporate, Spiritual or Temporal, and Natural Perſons: For Bodies Politick, *&c.* may be bound by uſage and preſcription only, becauſe they are local, and have a perpetual ſucceſſion, and never dye; but a Natural perſon cannot be bound by the Act of his Anceſtor, without Aſſets, or ſome profit to be taken therefore. 21 *E.* 4. *f.* 38. *b.* 27. *Aſſ.* 8. *Crompt*, 187. *Co.* 2 *part. f.* 700. *Dalt. J. P. c.* 13. *f.* 41.

53. By Common Right Bridges are to be amended by the whole County, if it be not known who ought to do the ſame otherwiſe. *Paſch.* 10 *E.* 3. 28, 29. *Co.* 2. *part. Inſt. f.* 701. *Crompt* 186. *b. Ir.* 10 *Car.* 1. the Caſe of *Longford* Bridge. *Rolls Caſes* 1. *part. f.* 368. *& Cro. Rep.* 3. *part.* the ſame caſe.

54. If a man erect a Mill for his own particular profit, and cut a new courſe for the Water to come

to

to it, and makes a new Bridge over the ſame, and the Kings Subjects uſe to ride over the ſame as over a common Bridge; ſuch Bridge ought to be repaired by him who hath the Mill, and not by the County, becauſe he erected it for his own benefit, 8 *E.*2. *B.R.* adjudged for *Bow* Bridge and *Channel* Bridge againſt the Prior of *Stratford*, *Rolls Caſes.* 1.*part.f.*368.

55. Such as are chargeable to repair a Bridge, may enter upon any other mans Land or Soil adjoyning, and lay their Stone, Lime, Timber, or other things neceſſary there for the repairing and amending thereof, and the owner of the Lands ſhall have no Action therefore; for it is for the common Profit; and the party that is chargeable to repair a Bridge, muſt alſo maintain the way at each end thereof (though the Soil be to another) and and if the ends be broken by the Water-courſe, he muſt follow the Water-courſe, and repair the way, *&c. Crompt.*186.*b.*43. *Aſſ. Dalt. J.P.c.*13.*f.*42.

56. The Names of ſome Statutes for particular Bridges follow, 8 *H.*6 *c.*28. for the making of *Burford* and *Culhamford* Bridge. 18 *El.c.*1.7 & 27 *Elc.*25. for the maintenance of *Rocheſter* Bridge. 18 *El.c.* 20 for repair of the Bridges within a mile of *Oxford*, 23 *El.c.*11. for the maintenance of the Bridges over *Toſſe* in *Wales.* 39 *El.c* 23. for making and repairing of *Newport* and *Carlion* Bridges over the River *Uſk.* 39 *El. c.* 24. for building and maintenance of a Bridge at *Wilton* upon *Wy* near *Roſs* in *Herefordſhire*, 43 *El. c.* 16. for erecting and repairing *Edon* and *Presberk* Bridges in *Cumberland.*3 *Jac. c.*23. for making and repairing *Chepſtow* Bridge.

57. By the *Stat.*22 *Car.*2.*c.*12. It is enacted, That the Surveyors and Orderers of the work of amendment of the High-ways ſhall be yearly choſen

in Chriſtmas-week, according to the Stat. 2, & 3. *P. & M. c.* 8. Which perſons ſo choſen ſhall take upon them that Office, and ſhall appoint ſix days for providing Stones, Gravel, and other Materials, and for working in the High-ways, having reſpect to the ſeaſon of the year and weather, and giving notice publickly ſome convenient time before the ſeveral days. At which day, all perſons lyable to the ſaid work ſhall attend and work: And the ſaid Surveyors and Orderers ſhall make return of the Defaulters and every of them within one month, to ſome neighbouring Juſtice of the Peace of the ſame County.

A GUIDE for Treaſurers of the County Stock, *for the Relief of Poor Maimed Souldiers and Mariners.*

1. THeſe Treaſurers are certain Officers appointed by the Juſtices of Peace, to have the Charge of the Receipt and Diſburſement of Money taxed and levyed upon the whole County yearly for the relief of Poor Maimed Souldiers and Mariners: For the Juſtices of Peace are yearly at their Quarter Seſſions, about *Eaſter*, to chooſe or appoint one or two perſons (according to their diſcretions) of the County for the taking and diſtributing of the Moneys collected for the purpoſes aforeſaid: and theſe Treaſurers, by the words of the Statute, ought to be Subſidy men of 10 pounds in Lands, or 15 pounds in Goods, (but it ſeems, if they be ſufficient men, this is not ſtood upon)

upon) and these Officers are to continue in their Office one year, and new ones then to be chosen in their rooms. 43 *El. c.* 3. *Wingate's Stat. Tit. Captains.*

2. Now for the raising of Money for these Treasurers, the greater part of the Justices in their Quarter Sessions have power to charge every Parish within their limits towards a weekly Relief of Maimed Souldiers and Mariners, so that no Parish pay weekly above 10 pence, nor under two pence; nor any County, which consists of above 50 Parishes, pay above six pence, one Parish with another. 43 *El. c.* 3. As for the Power given the Justices of Peace by *Stat.* 14 *Car.* 2. *c.* 9. to charge the Parishes with a greater Proportion, that is now gone; and so is likewise the other Branch of that Statute, touching Provision and Relief for such Maimed or Indigent Persons who were in This, or the late Kings Service during the Wars; and for the Widows and Orphans of such as died in that service, the said Statute being expired, must be assessed in every Parish by the Parishioners (or in their Default) by the Constables and Churchwardens (or in their Default) by the next Justice or Justices of the Peace. And the Constables and Churchwardens have power to levy the Tax in every Parish of every person refusing to pay the same, by distress and sale of his Goods, rendring the overplus to the owner; and in the Constables and Churchwardens Default, the next adjoyning Justice may distrain for the same. 43 *El. c.* 3 *Wingate's Stat. Tit. Captain, & Dalt. J. P. c.* 53. *f.* 135.

3. The Sums of Money so charged upon the respective Parishes, as aforesaid.

4. When the Tax is levyed, the Constables and Churchwardens are to deliver it quarterly (ten days before every Quarter Sessions) to the High Con-

Conſtable of their Diviſion, who muſt deliver to the Treaſurers of the County at the ſame Quarter Seſſions all the ſame Money; and if the Conſtables or Churchwardens, their Executors, *&c.* fail in the payment to the High Conſtable within the time aforeſaid, then they are to forfeit 20 *s.* and if the High Conſtable fail to pay the Treaſurers every Seſſions, then he forfeits 40 *s.* which forfeitures, as it ſeems, the Treaſurers may levy by Diſtreſs and Sale of the Offenders Goods, without any Warrant, rendring the overplus to the Owner: And theſe Forfeitures are to go in Augmentation of the Treaſurers Stock. 43 *El. c.* 3.

5. The Maimed Soldier or Mariner which was preſt, ſhall repair (if he be able to Travel) to the Treaſurers of the County where he was preſt; if he were not preſt, then to the Treaſurers of the County where he was born, or where he laſt dwelt by the ſpace of three years, at his Election; but if he be not able to Travel, then to the Treaſurers of the County where he Lands; and he is to bring with him a Certificate under the Hand and Seal of the Chief Commander, or of the Captain under whom he ſerved, containing the particular of his hurts and ſervice, which Certificate ſhall alſo be allowed by the Muſter-Maſter, or the Receiver General of the Rolls for the Muſter, under one of their hand. 43 *El. c.* 3.

6. Then upon ſuch a Certificate, the Treaſurers aforeſaid may allow the party Relief to maintain him till the next Quarter Seſſions; and then the major part of the Juſtices may allow him a Penſion, which the Treaſurers muſt pay him quarterly, until it ſhall be revoked or altered by the ſaid Juſtices; and this allowance is not to exceed 10 *l. per ann.* to a common Souldier, nor 15 *l.* to an Officer under

under a Lieutenant, nor 20 *l.* to a Lieutenant. 43 *El. c.* 3. *Wingate's Stat. Tit. Captains and Souldiers.*

7. Note, Where Souldiers and Mariners arrive far from the place where they are to receive Relief, the Treasurers there shall give them Relief, and a Testimonial whereby they may pass from Treasurer to Treasurer, until they shall come to the place required; and this shall be done upon the bare Certificate of the Commander and Captain, although they have not as yet obtain'd any allowance from the Muster-Master, or Receiver General of the Muster Rolls, *Wingate's Stat. Tit. Captains and Souldiers.* 43 *El. c.* 3.

8. If any Souldier or Mariner beg, or counterfeit a Certificate, he shall be punished as a common Rogue, and shall loose his Pension, if he have any. 43 *El. c.* 3. *Wingate ubi supra.*

9 When out of the County where the party was prest, a fit Pension cannot be satisfied, it shall then be supplied by the County where he was born, or where he last dwelt by the space of three years. *Wingate ubi supra.* 43 *El. c.* 3.

10. The Treasurers are to Register all their Receipts and Disbursements, and must enter the Names of the Parties relieved into their Book, and also the Certificate, by virtue whereof the disbursements are made; and where they disallow of a Certificate, they are to set down the Reasons of their Refusal under the Certificate, or on the back thereof. 43 *El. c.* 3. *Wingate's Stat. Tit. Captains and Souldiers.*

11. If any Treasurer wilfully refuse to give Relief in the cases aforesaid, the Justices of the Peace in their Sessions may set a Fine upon him, which may be levyed by distress and Sale of his Goods. *Wingate ubi supra.* 43 *El. c.* 3.

12. These

12. Theſe Officers at the end of their year, within 10 days after *Eaſter* Seſſions, are to give up a juſt account to the ſucceeding Treaſurers of all their Receipts and Diſburſements within the time of their Office; and then if they have any Money in their hands, they are to deliver it to their Succeſſors; and if any ſuch Officer, his Executors, or Adminiſtrators ſhall not give up ſuch Account within the time aforeſaid, or ſhall be otherwiſe negligent in the execution of his Office; The Juſtices at their Seſſions may aſſeſs what Fine they pleaſe upon him; ſo that it be not under five pounds, but what they pleaſe above five pounds upon him, his Executors or Adminiſtrators. *Wingate ubi ſupra.* 43 *El. c.* 3.

13. In Corporations the Juſtices there are to put this Action in Execution, and not the Juſtices of the County: This Act is not to prohibit the City of *London*, to make a Tax if need require, differing from that above limited in this Act, ſo that no Pariſh pay above three ſhilling weekly, nor under 12 pence weekly one Pariſh with another. 43 *El. c.* 3.

A GUIDE for Treaſurers of the County Stock, for the Relief of Poor Priſoners in the King's-Bench *and* Marſhalſea, *and for Hoſpitals and Almſhouſes in their ſeveral Counties.*

1. THeſe Officers are to be yearly choſen by the Juſtices at their Quarter Seſſions about *Eaſter*,

Easter, and they must be two for every County, Riding, *&c.* and by the words of the Statute they ought to be Subsidy men of 5 pound in Lands, or 10 pounds in Goods at the least, or near that value; and these Officers ought to continue in their Office but one year, and then others to be chosen, and they are to have the charge of the Receipt and Disbursement of the Money taxed and levyed upon the whole County yearly, for the Relief of the Prisoners in the *Kings-Bench* and *Marshalsea*, and for the Relief of Hospitals and Almshouses within the same County. 43 *El. c.* 2.

2. And for this purpose the Justices of Peace of every County or Corporation, or the major part of them, at *Easter* Sessions yearly, or as often as they shall think fit, may rate every Parish at a certain sum to be paid weekly; but so as no Parish pay more than six pence, nor less than a half peny, and one Parish with another not above two pence through the whole County or Corporation, which sum so rated, the Constables and Churchwardens in every Parish, or any of them, (or in their default the next Justice of Peace) have power to assess, and to levy by Distress and Sale of the Parties Goods refusing to pay, rendring the Overplus to the Owners; and for default of Distress, the said Justice may commit the Party to Prison till it be paid. *Wingate's Stat. Tit. Poor.* 43 *El. c.* 2 *Dalt. J. P. c.* 53. *f.* 135.

3. And these sums collected and levyed as aforesaid, the Churchwardens or Constables of every Parish are to pay to the High Constable of that Division ten days before every Sessions, on pain that they or their Executors, *&c.* shall forfeit ten shillings: And the High Constable is to pay over the Sums received to the Treasurers, or one of them every

every Quarter Seſſions, in pain that he, his Executors, &c. ſhall forfeit 20 ſhillings; and theſe Forfeitures are to be levyed by the Treaſurers by Diſtreſs and Sale of the Offenders Goods, rendring the overplus to the party offending, which Forfeitures ought to be imployed by the Treaſurers for the uſes aforeſaid. 43 *El. c.* 2. *Wingate's Stat. Tit. Poor.*

4. And ſuch Sums as the Juſtices ſhall appoint for the *Kings-Bench* and *Marſhalſey* (which muſt be 20 *s.* yearly out of each County to each of them) Theſe Officers muſt pay over in convenient time to the Lord Chief Juſtice of *England*, and Knight Marſhal for the time being, equally to be divided to the uſes aforeſaid, taking their Acquittances for the ſame, and in default of the ſaid Chief Juſtice, the next ancienteſt Juſtice of the *Kings-Bench*. *Wingate ubi ſupra* 43 *El. c.* 2.

5. They are to pay yearly alſo, by a Quarterly Payment, ſuch Sums of Money as ſhall be ſet down by the Juſtices of Peace at their Quarter Seſſions, unto the Maſters and Governours of the Houſes of Correction, the which if they do refuſe or neglect to do, the ſame Maſters or Governours (without any Warrant) may levy the ſame of the Goods of the ſaid Treaſurers by diſtreſs and ſale, rendring them the Overplus. 7 *Jac. c.* 4.

6. And the Surpluſage of the Money, by the Treaſurers received, they muſt diſtribute and beſtow for the Relief of the poor Hoſpitals of the ſame County, and for the Relief of thoſe that have ſuſtained Loſſes by Fire, Water, the Sea, or other Caſualties, according to the diſcretion of the Juſtices of the Peace of the ſame County. *Wingate's Stat. Tit. Poor.* 43 *El. c.* 2.

7. Theſe Officers at the end of their year at *Eaſter*

Easter Sessions, are to give an account to the succeeding Treasurers of all their Receipts and Disbursements in the time of their Office; and then also, if they have any Money in their hands, they are to deliver up the same to the succeeding Treasurers. And if any Treasurer, so elected as before, shall wilfully refuse to take upon him the said Office of Treasureship, or to distribute and give Relief, or to account according to that Order the Justices shall set down, the Justices may Fine them at their Sessions, which Fine must not be under three pounds. 43 *El. c.* 2.

A GUIDE for Masters of the House of Correction, and Governours of the Corporations, or Work-Houses in London, Westminster, *&c.*

1. THE Governour or Master of the House of Correction is an Officer appointed by the Justices of Peace at their Quarter Sessions, to have the Oversight and Government of the House of Correction within their County or Riding, of whom the Justices are to take sufficient Security for the continuance and performance of the Service belonging to his Office; and the Justices are to set down what allowance they shall have for their pains, (which may be charged upon the County) and for the Relief of such as shall happen to be weak and sick in their custody and for the Stock to set on work such persons as shall be committed thither; and they may set down their

their orders concerning the same according to their discretions; and the Money allowed to these Officers by the Justices as aforesaid, is to be paid quarterly before-hand by the Treasurers of the County for the Relief of the Prisoners in the *Kings-Bench* and *Marshalsey*; and if the Treasurers refuse or neglect to pay it, the Master of the House of Correction may levy the same, or so much thereof as shall be unpaid, upon the Treasurers Account, by Distress and Sale of their Goods, rendring back the Overplus of the Money. 39 *El. c.* 4. 7 *Jac. c.* 4.

2. Now the Office and Duty of this Officer consists in these things following, *viz.* To look well to the same House, and the backside thereof, and to all the Implements and Goods he doth find there, and to look to all such lewd persons as he finds there at his entrance, and to receive all such Rogues, Vagabonds, and idle or disorderly persons, as by any of the Justices of Peace shall be sent thither. *Co.* 2. *part. Inst. f.* 731.

3. He is also to keep safely all such as are committed to his custody, and not to suffer them to wander abroad about the Country, or to escape away without order of Justices. 7 *Jac. c.* 4. *Co.* 2 *part. Inst. f.* 734.

4. He is also to see and take care, that amongst the persons committed to his charge, if there be any sick, or otherwise Impotent, that stands in need of Relief, that he do relieve them, according to their necessity. 7 *Jac. c.* 4. *Co.* 2. *part. Inst. f.* 732.

5. And for the rest that are able to work, he is to see and take care that from time to time, as long as they remain there, they be set to work and labour; for during that time, they must in no sort be chargeable to the Countrey for any allowance, either at coming in, or going forth, or abode there,

for they are to have such and so much allowance only as they shall deserve by their own labour and work: and if they will not work and perform their Task, he is to punish them as he sees cause, with putting on Fetters or Gyves upon them, and by moderate whipping of them. 7 *Jac.c.*4 *Co.*2. *part.Inst.f.*731.

6. And lastly, at every Quarter Sessions the Master is to give an Account of all such persons as have been committed to his custody; And if he offend in any of these particulars before rehearsed, or in any other Duty incident to his Office, the Justices of Peace may impose such Fines and Penalties upon him for the same, as they shall think fit; and these Fines must be paid unto, and must be accounted for by the Treasurer of the County Stock for the *Kings Bench* and *Marshalsey*, &c. 7 *Jac.c.*4. *Co.*2. *Inst.f.*734.

7. Now touching the Corporations and Work-Houses in *London* and *Westminster*, and within the Burrough Towns and Places of the Counties of *Middlesex* and *Surrey* within the weekly Bills of Mortality, and their Officers; these things are to be observed following: First, it is ordained, that there shall be one or more Corporation or Corporations, Work-house or Work-houses within the Cities of *London* and *Westminster*, and the Burroughs and Places within the Counties of *Middlesex* and *Surrey*, lying within the weekly Bills of Mortality, consisting of a President, Deputy President, and Treasurer; and the Lord Mayor to be President of the Corporation, Work-house, or Work-houses within the City of *London*, and the Aldermen and 52 other Citizens, to be chosen by the Common Councel to be Assistants; which President and Assistants, or major part of them, are

to

to chooſe a Deputy Preſident and Treaſurer, and all other neceſſary Officers to execute the powers appointed by the Act; and a Preſident, Deputy Preſident, Treaſurer and Aſſiſtants are to be appointed by the Lord Chancellour or Lord Keeper of the Great Seal for the City of *weſtminſter*, and the Liberties thereof, for the Corporation or Corporations, Work-houſe or Work-houſes within the ſame; and for the ſaid Places within the Weekly Bills of Mortality in the Counties of *Middleſex* and *Surrey*, a Preſident, Deputy, and Treaſurers are to be choſen by the major part of the Juſtices of the ſaid Counties at their Quarter Seſſions, of the moſt able Inhabitants and Freeholders of the ſaid Counties of *Middleſex* and *Surrey*, for the Corporation or Corporations, Work or Work-houſes of the ſaid Counties. 14 *Car* 2. *c*. 12.

8. And upon Vacancy, Death, or otherwiſe of any of the Preſidents, Deputy Preſidents, Treaſurers or Aſſiſtants in the City of *weſtminſter* and places aforeſaid, in *Middleſex* and *Surrey*, the major part of the Juſtices at their General Quarter Seſſions have power to elect others in their rooms; and at every Quarter Seſſions the ſaid Juſtices are to take an account in Writing of all the Receipts, Charges, and Diſburſements of the Officers and Treaſurer of ſuch Corporation or Corporations, Work-houſe or Work-houſes, how, and how many poor people have been imployed and ſet to work in the year laſt paſt, and what Stock there was and is remaining. 14 *Car*. 2. *c*. 12.

9. The Preſident, Deputy Preſident, Treaſurers and Aſſiſtants aforeſaid ſhall be Bodies Politick and Corporate for ever, and ſhall have a perpetual Succeſſion, and may ſue, plead, and be impleaded by the Name of a Preſident and Governours of the

Poor for the reſpective places aforeſaid, in all Courts and Places of Judicature within the Kingdom of *England* and *Wales*, &c. and may without Licence in Mortmain, Purchaſe, or receive any Lands, *&c.* not exceeding the yearly value of 3000 *l. per annum*, of the Gift, Alienation or Deviſe of any perſon or perſons; and every of the Corporations may keep Courts for the ends and purpoſes in the Act expreſſed, at ſuch time and place as ſhall be appointed by the ſaid Preſident, his Deputy or the Treaſurer; who are upon the deſire of any four of the ſaid Corporation, at any time to cauſe a Court to be warned accordingly, and may from time to time make Common Seals for the uſe of the reſpective Corporations. 14 *Car.* 2. *c.* 12.

10. The Reſpective Preſidents and Governours of the ſaid Corporations, or any two of them, or any perſon authorized and appointed by them, or any two of them, may from time to time apprehend, or cauſe to be apprehended any Rogues, Vagrants, Sturdy Beggars, or idle or diſorderly perſons, within the ſaid Cities and Liberties, Places, Diviſions, and Precincts, and cauſe them to be kept and ſet to work in the ſeveral and reſpective Corporations and Work-houſes. 14 *Car.* 2. *c.* 12.

11. If the Preſident and Governours of any of the ſaid Corporations ſhall certifie under their Seals, at any time their want of Money for a Stock, and what ſum they think fit for the ſame, to the Common Council of the City of *London*, and the Burgeſſes and Juſtices of Peace in their Quarter Seſſions for *Weſtminſter*, or to the Juſtices of the reſpective Counties for *Middleſex* and *Surrey* in their Quarter Seſſions, then they are from time to time to ſet down and aſcertain ſuch competent

ſums

sums of money for the purposes aforesaid, not exceeding one years Rate usually set upon any person for, and towards the Relief of the Poor; and the same to proportion out of the several Wards, Precincts, Counties, Divisions, Hundreds, and Parishes, as they shall think fit, according to the said Proportions for the said several Wards, Precincts and Parishes, to Tax and Rate the several Inhabitants, within the said respective Wards, Precincts and Parishes; in which Tax if any shall find himself agrieved, he or they are to appeal to the Justices of the Peace at their next open Sessions, where the business is to be finally ended. 14 *Car.* 2. *c.* 12.

12. And any Alderman of *London*, or his Deputy, Burgesses and Justices of Peace of the Counties of *Middlesex* and *Surrey*, by Warrant under their Hands and Seals, may authorize the Churchwardens, or Overseers of the Poor within the Places and Parishes aforesaid, to receive and demand of every person and persons such sums of Money as shall be assessed upon them, by virtue of the Taxations and Constitutions aforesaid; and for default of payment within ten days after demand or notice left at the dwelling house or lodging of every person assessed, then to levy the same by distress and sale of his Goods, rendring him the overplus. 14 *Car.* 2. *c.* 12.

13. But now this Power of making Taxations or Assessments upon the Parishes is gone: For by the Statute of 22, & 23 *Car.* 2. it was Enacted, That no Assessment should be laid on any of the said Parishes after the 29*th.* of *September* 1675. 22, & 23 *Car.* 2. *c.* 18.

14. The respective President and Governours, or seven of them may make and constitute Orders

and By-Laws for the better relieving, regulating, and setting the Poor to work, apprehending and punishing of Rogues and Vagabonds, within the Cities, Liberties, and Places aforesaid, provided the said By-Laws be presented to the Justices of Peace at their Quarter [illegible], and confirmed by the order of the said [illegible]. And the Presidents and Governours, or four of them of any of the said Corporations or Work-houses, may choose and entertain all such Officers as shall be needful to be imployed in and about the Premisses, and remove them as they see cause, and make such reasonable allowances unto them out of the Stock belonging to the Work-house, as they shall think fit. 14 *Car.* 2. *c.* 12.

15. This Act is not to prejudice any the Franchises, Rights, Liberties, or Priviledges heretofore granted by any Kings or Queens of this Realm, to the Dean and Chapter of the Collegiate Church of St. *Peters* in *Westminster*. 14 *Car.* 2. *c.* 12.

A GUIDE for Bayliffs of Mannours.

1. THe Bayliff of a Mannour is an Officer chosen by the Lord of the Mannour, and this Officer by the Ancient *Saxons* was called a *Reeve*, for the name *Bayliff* was not known among them, but came in with the *Normans* it seems. *Termes de Ley, verb.* Bayliff.

2. This Officer is to Summon and call the Lords Courts, and to collect his Rents, Fines, Herriots, and Amerciaments, and other profits happening within the Mannour as they grow due; and he may

may ſeize or diſtrain for them *ex Officio*, where ſeizure and diſtreſs is juſtifiable without any ſpecial Command of the Lord, he may alſo pay Quit-Rents. *Termes de Ley, ubi ſupra.*

3. It is ſaid he may alſo order his Lords Husbandry, diſtrain Beaſts, damage Feaſant, repair any Houſes, Hays, or Pales; and for that purpoſe cut down Timber or Trees: but it is not ſafe for him to build a new Houſe, or ſet up an old Houſe that is fain, or to make any new Additions or Alterations as to Tyle the Houſe, which before was Thatched, or Pale it where before it was Hedged, or the like, without a ſpecial command from his Lord ſo to do, for otherwiſe he will be a Treſpaſſer to the Lord.

4. It is ſaid alſo, that he may take any Cattel for his Lord to compoſt his ground as an Agiſtment, and cut down Underwoods that have been uſed to be cut, and he is to over-ſee and order the Labour of other Labourers and Servants under him about his Lords work.

5. And laſtly, Theſe Officers are to give Account to their Lords of all their Receipts and Diſburſements, and pay into him the money remaining in their hands, being required thereunto. and if they refuſe, the Lord may compel them thereunto by an Action of Account given to him for his Relief in ſuch caſe. *Bro. Bayliff.* 31. 8 *E.* 4 *f.* 13.

A GUIDE for Governours of FAIRS.

1. THe Owner, Governour, Ruler, Farmer, Steward, Bayliff, or Chief Keeper of every Fair and Market overt, are to appoint and limit out a certain and open place within the Town, Place, Field, or Circuit, where Horſes, Mares, Geldings, and Colts, muſt be ſold, and they muſt appoint one ſufficient perſon or more to take Toll, and keep the ſame place from ten of the Clock before Noon until Sun-ſet of every day of the aforeſaid Fair or Market, upon pain to loſe for every default 40 ſhillings. 2, 3 *P.M.c.7.Co. 2 part.Inſt.f.715.*

2. And the Toll-gatherer, his Deputy or Deputies are to take their due and lawful Tolls for every Horſe, Mare, *&c.* at the place and times aforeſaid; and they are to have before them at the taking of the ſaid Toll, the Parties to the Bargain, Exchange, Giſt, Contract, or putting away of every ſuch Horſe, Mare, *&c.* and alſo the ſame Horſe, Mare, *&c.* ſo ſold, exchanged, or put away, and then the Toll-gatherer muſt write in his Book the Names, Sirnames, and dwelling places of all the ſaid Parties, and the Colour with one ſpecial Mark at the the leaſt of the ſaid Horſe, Mare, *&c.* on pain to forfeit for every default 49 ſhillings. 2, 3 *P.M. c.7. Co. 2. part. Inſt f. 715.*

3. And the ſaid Toll-gatherer is within one day after the Fair, *&c.* to bring his Book to the Owner, Governour or Ruler, *&c.* of the Fair, or

or Market, who is then to cauſe a note to be made out of the ſames of the true number of all the Horſes, Mares, *&c.* Sold at the ſaid Fair or Market, to which note he muſt ſet his hand or Mark, on pain of 40 ſhillings: And if the Toll-gatherer neglect to bring the Book as aforeſaid, he alſo forfeits 40 ſhillings. 2,3 *P. M. c.7. Co.2.part. Inſt.f.715.*

4. Note, That where no Toll is due, the Book-keepers Fee for entring every Contract, is one peny and no more. 2,3 *P.M.c.7.Co.2.part.Inſt.f.716.*

5. Now ſince the making of this Stat. 2,3 *P. & M.* It is further provided by the 31 *Eliz.* That every Seller or Exchanger of any Horſe, Mare, *&c.* in a Fair or Market, which is unknown to the Toll-taker or Book-keeper, muſt procure one credible perſon that is well known to the Toll-keepers, or Book-keeper, who is to vouch and teſtifie his knowledge of the Seller, and the Toll-taker or Book-keeper is to enter both the Names and Sirnames, Myſteries and Places of dwelling of the Seller and Voucher into his Book, with the colour, mark, and Price of the Horſe, Mare, *&c.* ſo ſold or exchanged; and he is to give the Buyer, if he require it, a note in writing out of his Book, concerning the Contract ſubſcribed with his hand, for which he is to have two pence. 31 *El. c.12. Co. 2.part. Inſt.f.717, & 718.*

6. Every Toll-Taker or Book-keeper that ſuffers a Sale to paſs without a Voucher, unleſs he know the party of his own knowledge, as aforeſaid, and every perſon making falſe Teſtimony or Avouchment in the behalf aforeſaid, and every Seller unknown to the Toll-taker, not bringing a Voucher, and cauſing the ſame to be entred as aforeſaid, forfeits five pounds, one moiety thereof to the King, and the other to the Proſecutor;

and

and alſo the ſale of ſuch Horſe, Mare, &c. to be void. 31 *El. c.* 12. *Co.* 2 *part. Inſt. f.* 718.

7. And note, That though an Horſe, Mare, &c. be at the ſale uſed in all the points aforeſaid, with Voucher, &c. yet the right Owner, his Executors or Adminiſtrators, may redeem a ſtoln Horſe, if they claim him within ſix months after the ſtealing, at the Pariſh or Corporations where they ſhall find him, and make proof within 40 days after by two ſufficient Witneſſes before the next Juſtice of Peace of the County, or before the Head Officer in a Corporation, that the Horſe was their's, and repay to the Buyer ſuch price for the Horſe, as the ſame Buyer ſhall upon his own Oath before ſuch Juſtice or Officer teſtifie he paid for him. 31 *El. c.* 12. *Wingate's Stat. Fit. Faits and Markets. Co.* 2. *part. Inſt. f.* 718.

8. And if a ſtoln Horſe be not ſold in Fair or Market, according to the Rules aforeſaid, then ſuch ſale does not alter the property of the right Owner, but he may Seize or Replevy him whereſoever he finds him. 31 *El. c.* 12. *Wingate's ubi ſupra Co.* 2. *part. Inſt. f.* 718.

9 By the Stat. 22 *Car.* 2. *c.* 8. There ſhall be no Buſhel but the *Wincheſter* Buſhel, containing eight Gallons, and none ſhall ſell by other meaſure, on pain of 40 ſhilling.

10. If the Clerk of the Market of the Kings-houſe, or others authorized to mark or ſeal Meaſures, being required ſhall neglect or refuſe to ſeal or mark any Buſhel, Half Buſhel, or Peck duly gauged, he forfeits 5 *l.* for the firſt offence, and for every other offence 10 *l.* Or if the Kings Clerk of the Market of his Houſe take more than his Fees; or if any other take above one peny for ſealing a Buſhel, one half peny for the Half Buſhel or Peck,

or more than one farthing for any leſſer Meaſure, he incurs the Penalties in the Stat. 17 *Car.* 1.

11. That at the charge of ſuch perſons who have the Toll, or profit of the Market where no toll is taken, there ſhall be before 29 *Sept.* 1670. one Meaſure of Braſs provided and chained in the Market place, upon pain to forfeit 5 *l.* 22 *Car.*2. *c.*8.

12. By the Stat. of 22, *&* 23 *Car.*2. It is further provided, That whoſoever ſhall ſell or buy any Corn or Salt by the Bag, or without meaſuring, being thereunto required, or in any other manner than as by the Stat. 22 *Car.*2. *c.*8. is directed, and without ſhaking the Meaſure by the Buyer, ſhall forfeit beſides the Penalty in the former Act, all the Corn or Salt, or the value thereof to the Perſon or Perſons complaining. 22 *&* 23 *Car.*2. *c.*12.

13. Upon complaint to one or more Juſtices of Peace, the Proof ſhall lye upon the Defendant, to make appear by Oath of one or more Witneſſes, that he or they did ſell or buy according to this and the ſaid former Act; wherein if he fail, he ſhall forfeit as by this Act is directed, to be levyed by diſtreſs and ſale of Goods, by Warrant under the Hand and Seal of one or more Juſtices before whom ſuch conviction ſhall be. The Penalties to be diſtributed, one half to the Poor of the Pariſh where the Offence ſhall be committed, the other to the Informer. 22, *&* 23 *Car.* 2. *c.* 12.

E. G. M. B.

FINIS.